

**FUNDING AGREEMENT FOR FISCAL YEAR 2018-2019 BETWEEN THE
DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY AND
OLD SCHOOL SQUARE CENTER FOR THE ARTS, INC.**

THIS AGREEMENT is made this ____ day of _____, 2018 by and between the **DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY**, a public agency, (hereinafter referred to as “**CRA**”), and **OLD SCHOOL SQUARE CENTER FOR THE ARTS, INC.**, a Florida not-for-profit corporation, (hereinafter referred to as the “**OSS**”).

WITNESSETH:

WHEREAS, increasing economic development through cultural opportunities within the Delray Beach Community Redevelopment Area is essential to the Community Redevelopment Plan; and

WHEREAS, the **CRA** Board finds that the services and programs provided by **OSS** further the goals and objectives of the **CRA** as contained in the Community Redevelopment Plan by attracting visitors to and promoting economic development activity within the downtown area, and are in the best interest of the **CRA**; and

WHEREAS, the **CRA** will provide funding to **OSS**, pursuant to the terms and conditions of this Agreement, in order to assist **OSS** with activities that address the goals and objectives contained in the **CRA**’s Redevelopment Plan, and the needs and priorities defined by the **CRA** in the **CRA**’s “*A-GUIDE: Achieving Goals Using Impact Driven Evaluation*,” for which **OSS** has applied and which have been awarded according to procedures specified in the A-GUIDE; and

WHEREAS, the **CRA** finds that this Agreement serves a municipal and public purpose, is consistent with the Community Redevelopment Plan, and conforms with the requirements of Florida law.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties hereby agree as follows:

1. The recitations set forth above are hereby incorporated herein by reference.
2. The term of this Agreement shall commence upon execution by both parties. The Agreement shall continue in full force and effect until September 30, 2019.

3. The **CRA** shall provide total funding to **OSS** for fiscal year 2018-19 in an amount not to exceed Seven Hundred Fifty Thousand and 00/100 Dollars (\$750,000.00) in A-Guide Funding, for fiscal year 2018-19 (the "Funding Amount"). The funds are to be used by **OSS** to support its organizational operations, and for the purpose of providing community and cultural programs in conformance with the programs/projects specified in the A-GUIDE documents in the Delray Beach Community Redevelopment Area. Quarterly payments in an amount not to exceed One Hundred Eighty-Seven Thousand Five Hundred and 00/100 Dollars (\$187,500.00) shall be made by the **CRA** to **OSS**. The **CRA** has the right to withhold the quarterly payment until the **CRA** receives all information from **OSS** that the **CRA** deems necessary to analyze the **OSS'** financial position as provided in this Agreement.

4. Prior to the issuance of quarterly payments by the **CRA** for Fiscal Year 2018-2019, as specified in this Agreement, **OSS** shall provide a quarterly program evaluation and financial reports to the **CRA**. **OSS** shall use the forms attached as Exhibits "A" and "B" in order to document **OSS'** expenditure of funds and **OSS'** progress towards outcomes projected in the Goals and Outcomes Report and Budget. **OSS** will also be required to submit a Quarterly Balance Sheet. In addition, **OSS** may be required to present a quarterly update to the **CRA** Board upon request. The program evaluation and financial reports shall be provided to the **CRA** no later than January 31, 2019, April 30, 2019, July 31, 2019 and October 31, 2019. The **CRA** may request that **OSS** provide any additional information that the **CRA** deems necessary in order to fully evaluate **OSS'** performance and financial status. The payment will not be released to the **OSS** until the **CRA** receives the report and any additional information requested.

5. In addition to the quarterly program evaluation and financial reporting, with the second quarterly report, **OSS** shall also submit to the **CRA** a report on its Strategic and Fiscal Sustainability Plan to include a workout plan, a reduction in the **CRA** funding for future years, positive cash flow report and programming/operation adjustments.

6. **OSS** shall insure that all publicity, public relations, advertisements and signs recognize the **CRA** for the support of all activities conducted with the funds provided by the **CRA**, including sponsorship of holiday activities. The use of the **CRA** logo is permissible, but all signs or other advertising materials used to publicize **CRA**

funded activities must be approved by the **CRA** prior to being utilized. Upon request by the **CRA**, **OSS** shall provide proof of the use of the **CRA** logo as required by this paragraph for projects funded pursuant to this Agreement.

7. Both the **CRA** and **OSS** agree that **OSS** shall at all times act as an independent contractor in the performance of its duties under this Agreement. Accordingly, **OSS** shall be responsible for the payment of all taxes including Federal and State taxes arising out of **OSS'** activities in accordance with this Agreement including by way of illustration but not limitation, Federal income tax, Social Security tax, Unemployment Insurance taxes, and any other taxes or business license fees as may be lawfully required.

8. **OSS** hereby gives the **CRA**, through any authorized representative, upon reasonable notice, access to and the right to examine all records, books, papers, or documents relating to the funding provided pursuant to this Agreement. **OSS** hereby agrees to maintain books, records and documents in accordance with accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided by the **CRA** under this Agreement in accordance with the Florida Public Record Laws as provided in Chapter 119, Florida Statutes, as may be amended from time to time. **OSS** hereby agrees that if it has caused any funds to be expended in violation of this Agreement, it shall be responsible to refund such monies in full to the **CRA**, or if this Agreement is still in force, any subsequent request for payment shall be withheld by the **CRA**.

9. No prior or present agreements or representations with regard to any subject matter contained within this Agreement shall be binding on any party unless included expressly in this Agreement. Any modification to this Agreement shall be in writing and executed by the parties.

10. The validity of any portion, article, paragraph, provision, clause, or any portion thereof of this Agreement shall have no force and effect upon the validity of any other part of portion hereof.

11. This Agreement shall be governed by and in accordance with the Laws of Florida. The venue for any action arising from this Agreement shall be in Palm Beach County, Florida.

12. If the **CRA** determines pursuant to the A-Guide Logic Model and Evaluation Plan that **OSS** is not achieving the stated impacts and outcomes, or is otherwise not furthering the **CRA's** goals and objectives, the **CRA** shall provide written notice to **OSS** of such deficiency(ies), and the **OSS** shall have fourteen (14) days from receipt of the notice to cure the deficiency(ies) to the satisfaction of the **CRA**. Should **OSS** fail to cure such deficiency(ies) to the satisfaction of the **CRA**, the **CRA** Board has the right to void the Agreement immediately after delivery of written notice to **OSS**. The **CRA's** Board shall have sole and absolute discretion with respect to the determination as to whether **OSS** is filling the **CRA's** goals and objectives.

13. Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

CRA: Jeff Costello, Executive Director
20 N. Swinton Avenue
Delray Beach, FL 33444
Telephone No.: (561) 276-8640
Facsimile No.: (561) 276-8558

OSS: Kim Jones, CFO/Interim COO
51 N Swinton Ave
Delray Beach, Florida 33444
Telephone No.: (561) 243-7018

14. Neither the **CRA** nor **OSS** shall assign or transfer any rights or interest in this Agreement.

15. PUBLIC RECORDS **OSS** shall comply with the applicable provisions of Chapter 119, Florida Statutes. Specifically, **OSS** shall:

(a) Keep and maintain public records required by the **CRA** to perform the service.

(b) Upon request from the **CRA's** custodian of public records, provide the **CRA** with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if **OSS** does not transfer the records to the **CRA**.

(d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of **OSS** or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the **CRA** upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If **OSS** keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the **CRA's** custodian of public records, in a format that is compatible with the information technology systems of the public agency.

IF OSS HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE OSS'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT

**RENEE JADUSINGH
561-276-8640
JADUSINGHR@MYDELRAYBEACH.COM
20 NORTH SWINTON AVENUE
DELRAY BEACH, FLORIDA 33444**

16. This Agreement shall not be valid until signed by the **CRA** Chair.

[Signature Page to Follow]

IN WITNESS WHEREOF, the **DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY** Board of Commissioners has made and executed this Agreement on behalf of the **CRA** and **OLD SCHOOL SQUARE CENTER FOR THE ARTS, INC.** has hereunto set its hand the day and year written above.

ATTEST:

Print Name: _____

OLD SCHOOL SQUARE CENTER FOR
THE ARTS, INC., a Florida Not-for-profit
Corporation

By: _____

Print Name: _____

Title: _____

DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY

By: _____
Shelly Petrolia, Chair

ATTEST:

Jeff Costello, Secretary

I HEREBY CERTIFY THAT I HAVE
APPROVED THIS AGREEMENT
AS TO FORM:

General Counsel