

**AN INTERLOCAL AGREEMENT AND MULTIPLE PARTY
AGREEMENT FOR THE EAGLE NEST PROGRAM
PROJECT #4 AT ATLANTIC HIGH SCHOOL CAREER ACADEMY
(known as the Eagle Nest Interlocal Agreement #4)**

THIS INTERLOCAL AGREEMENT AND MULTIPARTY AGREEMENT is made this 1st day of October, 2018, by and between the **CITY OF DELRAY BEACH, FLORIDA** (hereinafter referred to as the "**CITY**"), the **DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY** (hereinafter referred to as the "**CRA**"), and the **SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA**, a corporate body politic pursuant to the Constitution of the State of Florida (hereinafter referred to as "**SCHOOL DISTRICT**") (and collectively known as the "**PARTIES**").

WITNESSETH:

WHEREAS, Community partnerships are encouraged to provide quality educational experiences to students and to promote the attainment of "real-world" skills which benefit the **CITY**, the **CRA**, and the **SCHOOL DISTRICT** and Palm Beach County; and

WHEREAS, the **PARTIES** realize that assisting the construction project of the Career Academy Program at Atlantic High School on Atlantic Avenue within the City of Delray Beach, known as the Eagle Nest Program (the "Program") will involve Language Arts (code and zoning restrictions); Math (measuring, estimating, budgeting and purchasing); Physics (insulation, material testing, trusses); Economics (taxes, insurance, mortgage, financing, budgets); Drafting (working drawings and blueprints); Journalism (newspaper articles and brochures); Criminal Justice (security issues, door locks, window treatments and lighting); career education (career preparation, applied opportunities, apprenticeships); E.S.E. (transition skills); Health (first aid/CPR); Biology (water cooler contamination); Foreign Language (safety sayings in six languages); Team Work; Leadership Skills (working with others to overcome obstacles); Public Speaking (speaking about the program to interested groups); and

WHEREAS, the Construction Industry will benefit when students learn the construction skills needed by the industry; and

WHEREAS, the Construction Industry, through its ability to give its support and materials will not only help the students and the Construction Industry, but all the **PARTIES**, including the students and the Construction Industry will be playing an

important part in providing an affordable/workforce housing opportunity to a family in need; and

WHEREAS, the Program, as provided for in this Agreement, is consistent with the Delray Beach Community Redevelopment Agency Redevelopment Plan, furthers redevelopment within the CRA's Community Redevelopment Area, and serves a municipal and public purpose; and

WHEREAS, the Program will utilize a parcel of real property owned by the **CITY** to construct a single-family residence, the **CRA** will grant to the **CITY** funds for construction, in the amount of One Hundred Fifty Thousand Dollars (\$150,000.00) (the "Funds") that will be used by the **SCHOOL DISTRICT** for the construction of a single-family residence (the "Eagle Nest House"), the **SCHOOL DISTRICT**, through the Program will construct the Eagle Nest House, through the efforts of students in the Program, and the Eagle Nest House will be sold and the construction monies will be repaid to the **CRA** through the use of the City's First Time Homebuyer Program, and a first time homebuyer will be able to buy through the First Time Homebuyer Program the Eagle Nest House. Profits over and above the construction loans and expenses will be retained by the Program for the building of future houses through the Program and the **SCHOOL DISTRICT** shall donate to the **CITY** ten percent of the profits, to offset costs and expenses and to further the Program.

NOW, THEREFORE, for the Mutual Promises and Covenants herein contained, the Parties agree as follows:

1. **Recitations**: The Recitations set forth above are incorporated herein.
2. **City Responsibilities and Rights**: The **CITY** shall:

(a) Allow the **SCHOOL DISTRICT**, through the Program, to build the Eagle Nest House on property owned by the **CITY**, more fully described in **Exhibit "A"** hereto (the "Property"). The **CITY** may take whatever action is necessary in law or in equity to secure its rights and obligations under this Agreement.

(b) Once the **CITY** receives Funds from the **CRA** it will disburse the Funds from time to time as follows:

(1) The **CITY**, using the Funds received by the **CRA** for the Program, shall deposit the Funds in an Eagle Nest Construction Fund. The Funds to be drawn by the **SCHOOL DISTRICT** for the Program during the term of this loan shall be disbursed by the **CITY**, not more than one time each month, on a direct payment basis as work progresses upon receipt by the **CITY** of properly executed draw requests acceptable to the **CITY** both as to form and substance together with bills and/or lien waivers. In addition, the **CITY** shall receive prior to any disbursement, a certification from

the **CITY's** inspectors, the **SCHOOL DISTRICT's** architect, the **SCHOOL DISTRICT's** general contractor and the **SCHOOL DISTRICT** indicating the work completed as of the date of the payment request, and that the work completed is consistent with the contract between the **SCHOOL DISTRICT** and its contractor. The **CITY** must receive an invoice at least seven (7) working days prior to the payment of draw request. Payments shall not exceed 90% of the value of the work performed and materials in place or the amount due to the contractors and material suppliers, whichever is less. Such ten percent (10%) hold back will be retained until completion of construction and funding of the final loan proceeds. There shall be no disbursements for materials stored offsite. Disbursements for materials stored onsite shall be permitted unless such disbursements are prohibited by or are in violation of the payment and performance bonds.

(2) The Funds shall be disbursed in accordance with all of the standard controls typically placed upon the disbursement of construction proceeds by the **CITY**. Disbursement will be made based upon a percentage of completion as described above, or directly to the contractor, subcontractor and/or supplier or in such other manner as the **CITY** may determine. Requisitions for advances shall be on the **CITY's** approved forms. All determinations as to cost-to-complete, feasibility, compliance with plans, specifications and building codes, frequency and amount of advance and other matters relating to disbursements shall be at the sole discretion of the **CITY**.

(3) No change orders that would cause the total construction cost to exceed the amount of the Funds will be permitted unless approved in writing by the **CITY** and the **CRA**.

(4) If the services of an architect and/or engineer are employed, the **CITY** shall, but at the **SCHOOL DISTRICT's** expense, require the architect's and/or engineer's certificate as to the progress of construction before making each disbursement in accordance with the aforesaid schedule.

(5) The **CITY** and the **CRA** may require, at its option, from time to time during construction, and following completion of the Eagle Nest House, for its own information and protection, evidence from the **SCHOOL DISTRICT** or contractor, or both, of the payment of bills for all labor and materials, but neither the **CITY** nor the **CRA** shall not be required or responsible to ascertain that any bills are paid.

(6) All monies disbursed hereunder shall be used solely on account of costs of construction and improvements on the Property and expenses of the construction loan, and no such monies shall be diverted or borrowed for any other use.

(7) The **CITY** and the **CRA** shall rely on the expertise of the **SCHOOL DISTRICT** to ensure that the construction of the Eagle Nest House has been in accordance with the specifications of any contract of the **SCHOOL DISTRICT** for the construction thereof and with industry standards.

(8) As requested by the **CITY** during construction, an Engineering Report satisfactory to the **CITY** shall be provided, at the **SCHOOL DISTRICT's** expense, from an independent engineering firm approved by the **CITY**. Said inspections shall show all buildings and equipment to be in satisfactory condition and working order.

(9) Notwithstanding any other provision hereof, the **CITY** shall be entitled at its option to refuse to make any disbursements hereunder, or to withhold a part of any disbursement, if the **SCHOOL DISTRICT** shall fail to perform or comply with any condition, contingency or requirement of any agreement between the **PARTIES**.

(10) If the **SCHOOL DISTRICT** or the **SCHOOL DISTRICT's** contractor shall fail to perform according to the terms of this Agreement or cause or permit conditions to arise so that performance would be rendered unduly difficult or hazardous, or if the **SCHOOL DISTRICT** shall fail, neglect or refuse to perform either or any of the **SCHOOL DISTRICT's** promises or agreements hereunder, or breach any promise, covenant, warranty or agreement made hereby, or if it becomes apparent that the **SCHOOL DISTRICT** or the **SCHOOL DISTRICT's** contractor will not complete said Improvements within the time specified in this Agreement, or if the **SCHOOL DISTRICT's** contractor shall become insolvent or if there is filed a voluntary or involuntary petition in bankruptcy or if a conservator or trustee or receiver is appointed or an assignment for the benefit of creditors is made, then and in either such event the **CITY** may, at its option, withhold further disbursements hereunder and will be entitled to take possession of the Property and has all rights as set forth in this Agreement and is entitled to pursue all of the remedies available at law and in equity and may pursue any or all rights and remedies as set forth in this Agreement and exhibits hereto.

(c) The **CITY** shall provide a first time home buyer for the Eagle Nest House through its First Time Homebuyer Program and assist the buyer in qualifying and obtaining a mortgage through the First Time Homebuyer Program. The **CITY** does not act as a guarantor for any loans. The **CITY** shall convey the Eagle Nest House and Property under the First Time Homebuyer Program.

(d) The **CITY** shall receive from the First Time Homebuyer Program proceeds in a sufficient amount to pay off the construction loan given by the **CRA** and will repay such loan to the **CRA** without interest upon the sale of the Eagle Nest House and Property.

(e) The **CITY** shall retain ten percent (10%) of the profits received upon the sale of the Eagle Nest House to use to facilitate the acquisition and costs, including, but not limited to quiet title costs, for the Eagle Nest House or for future, similar endeavors with the **PARTIES** or if none to facilitate the **CITY'S** Affordable/Workforce Housing Program.

(f) The **CITY** shall ensure that the **CRA** is referenced on any and all marketing materials for the Eagle Nest House.

(g) Neither the **CITY** nor the **CRA** shall be liable to materialmen, contractors, subcontractors, laborers or others for goods and/or services delivered and/or rendered by them in or upon the Property or employed in the construction of the Eagle Nest House or for any debts or claims accruing in favor of any such parties and against the **SCHOOL DISTRICT** or others or against the Property. The **SCHOOL DISTRICT** is not and shall not be the agent of the **CITY** nor the **CRA** for any purpose whatsoever.

(h) All inspection services, if any, rendered by the **CITY** or officers, agents, or employees, shall be rendered solely for its own information and protection. Neither the **CITY** nor its officers, agents or employees shall be in any way liable for the failure of any contractor, subcontractor or laborer to deliver materials or perform services to be delivered or performed by them.

(i) The **CITY** shall be responsible for insuring that the Property is maintained in a manner consistent with the **CITY's** Code of Ordinances and Land Development Regulations. This includes maintaining the lawn, landscaping, and fencing on the Property.

3. **CRA Responsibilities and Rights:**

(a) No later than thirty (30) days following execution of the Agreement by the last party to sign the Agreement, the **CRA** shall pay to the **CITY** Fifty Thousand Dollars (\$50,000.00) to be disbursed by the **CITY** to the **SCHOOL DISTRICT** for the Program at Atlantic High School for the construction of the Eagle Nest House located on Property. Additional draws shall be disbursed by the **CRA** to **CITY**, following the receipt of a written request with supporting documentation, no later than seven (7) days after the receipt of the written request, so long as the total amount of all payments by **CRA** to **CITY** do not exceed the sum of One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00). At the time of the closing on the sale of the Eagle Nest House to a qualified individual, pursuant to the requirements of this Agreement, the Funds provided by the **CRA** shall be repaid to the **CRA** without interest.

(b) The **CRA** may take whatever action is necessary in law or in equity to secure its rights and obligations under this Agreement.

4. **School District's Responsibilities and Rights:**

(a) The **SCHOOL DISTRICT**, through the Program, shall construct and erect, in a true, thorough, workmanlike and substantial manner, the Eagle Nest House on the Property, in substantial compliance and accordance with the plans attached hereto as **Exhibit "B"** (the "Plans") such other specifications as are mutually agreed to between the **SCHOOL DISTRICT** and the **CITY**. The **SCHOOL DISTRICT** shall fully equip the Eagle Nest House and install and pay for any fixtures and materials and complete and pay for any landscaping, walls, drives, approaches or walks required by the Plans.

(b) The **SCHOOL DISTRICT**, through the Program, shall receive from the **CITY**, (through monies the **CITY** receives from the **CRA**) the Funds, interest free.

(c) All services under this Agreement for which a contracting license is required by law shall be performed by a holder of the appropriate license retained by the **SCHOOL DISTRICT**.

(d) The **SCHOOL DISTRICT** shall take all necessary steps to ensure that construction of the Eagle Nest House shall proceed continuously and diligently, and in all events shall complete construction and equipage of Eagle Nest House and perform all covenants and promises contained in this Agreement not later than thirty-six (36) months after the last of the **PARTIES** execute this Agreement.

(e) The **SCHOOL DISTRICT** covenants and warrants that all necessary licenses or permits will be obtained to permit the completion of the Eagle Nest House and that all materials contracted or purchased are for delivery to the Property and for use in said construction, and all labor contracted or hired for or in connection with said construction shall be used and employed solely on the Property and in said construction and only in accordance with the Plans. Copies of the necessary building permits shall be furnished by the **SCHOOL DISTRICT** to the **CITY** forth with prior to any disbursement of the Funds pursuant to this Agreement.

(f) The **SCHOOL DISTRICT** shall work diligently towards the completion of the Eagle Nest House and during construction shall secure the Eagle Nest House and Property in a manner that does not cause undue deterioration of the aesthetics and safety of the neighborhood.

(g) The **SCHOOL DISTRICT** shall be entitled to ninety percent (90%) of the profits after the construction loan and expenses are paid in full. The **CITY** shall be entitled to the remaining ten percent (10%) of the profits to be used by the **CITY** as set forth in Paragraph 2(e).

(h) The **SCHOOL DISTRICT** shall maintain adequate records to justify all charges, expenses, and costs incurred in the construction of the Eagle Nest House.

The **SCHOOL DISTRICT** shall furnish, on completion of construction of the Eagle Nest House, all receipted bills, certificates, affidavits, releases of liens and other documents which may be required by the lien laws of the State of Florida or which shall be reasonably required by the **CITY** as evidence of full payment for all labor and materials incident to said construction and release of the Eagle Nest House on the Property from all liens therefor.

(i) The **SCHOOL DISTRICT** covenants and warrants that as of the date hereof no materials of any kind have been placed on the Property and no labor has been performed upon the Property incident to the contemplated construction.

(j) The **SCHOOL DISTRICT** shall furnish the **CITY**, at the Program's expense upon the completion of the Eagle Nest House, a survey showing the improvements properly located on the Property.

(k) The **SCHOOL DISTRICT** shall require its contractor to provide a standard one-year warranty homeowner warranty on the Eagle Nest House, said warranty to commence upon the date that the final Certificate of Occupancy is issued. The **SCHOOL DISTRICT** shall itself cooperate and require that its contractor cooperate with the **CITY** and the homeowner in the scheduling and performance of any warranty work.

(l) The **SCHOOL DISTRICT** agrees to comply with all federal, state, and local laws, rules and regulations of any nature whatsoever, applicable zoning ordinances and subdivision restrictions, now in effect or in the future.

(m) The **SCHOOL DISTRICT** shall ensure that the construction of the Eagle Nest House is appropriately supervised, without charge or deduction for such services.

(n) The **SCHOOL DISTRICT** shall execute all instruments required to fully comply with and shall abide by, complete, perform and carry out all of the **SCHOOL DISTRICT** representations, proposals and obligations. It is specifically agreed and understood that **CITY's** obligation to disburse the Funds at any time in accordance with this Agreement is contingent upon the **SCHOOL DISTRICT's** full and strict compliance with all of the covenants, warranties, representations, terms and conditions of the documents executed and delivered in connection with this Agreement.

(o) The **SCHOOL DISTRICT** shall furnish **CITY** forthwith and prior to the disbursement of any Funds pursuant to this Agreement, duly executed copies of the contract between contractor and the **SCHOOL DISTRICT** and any other contracts and/or subcontracts, purchasing orders and any other agreements between the **SCHOOL DISTRICT**, and any other party that the **CITY** shall reasonably request, including, without limitation a copy of the executed contract between the **SCHOOL DISTRICT** and its architect.

5. **Notices:** Any notice given pursuant to the terms of this Interlocal Agreement shall be in writing and hand delivered or sent by certified mail, return receipt requested. All notices shall be addressed to the following:

As to the CRA: Community Redevelopment Agency
Jeff Costello, Executive Director
20 North Swinton Avenue
Delray Beach, FL 33444

As to School District: Principal, Atlantic High School
2455 W. Atlantic Avenue
Delray Beach, FL 33445

With copy to:
General Counsel
School Board of Palm Beach County
P.O. Box 19239
West Palm Beach, FL 33406

As to City: Mark Lauzier, City Manager
City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, FL 33444

6. **Default:**

(a) The **PARTIES** agree that, in the event any party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party thirty (30) days written notice to cure the default. In the event the defaulting party fails to cure the default within the thirty (30) day cure period, the non-defaulting party shall be entitled to seek any remedy available to it at law or equity, including, but not limited to, the right to terminate this Agreement and seek damages,

(b) In the event that the **SCHOOL DISTRICT** defaults under its obligations during construction of the Eagle Nest House, the **CITY** is entitled to take possession of the Property and has the option to complete the Eagle Nest House using whatever Funds the **CITY** has retained and is entitled to receive the Funds from the **SCHOOL DISTRICT** that have been disbursed by the **CITY** for the Program, but have not been expended. This covenant is in addition to and not a substitution for all rights of the **CITY** set forth elsewhere in this Agreement and any exhibits thereto.

7. **Termination:** The **SCHOOL DISTRICT** or **CITY** may terminate this Interlocal Agreement upon thirty (30) days advance written notice to each other for non-compliance in the performance of any of the terms and conditions as set forth herein and

where **SCHOOL DISTRICT** or the **CITY** does not cure said non-compliance within ninety (90) days of receipt of written notice to do so. Further, upon written notice, **SCHOOL DISTRICT** shall reimburse the **CITY** any Funds provided to **SCHOOL DISTRICT** pursuant to this Interlocal Agreement that have not been expended by the **SCHOOL DISTRICT** by the date of the notice of termination and the **CITY** will use the Funds to complete the project. In the event of termination, prior to the commencement of any construction, the **CITY** shall return all Funds to the **CRA**.

8. **Governing Law; Remedies; Venue:** This Interlocal Agreement shall be governed by the laws of the State of Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof. The parties hereto may pursue any and all actions available under law to enforce this Interlocal Agreement including, but not limited to, actions arising from the breach of any provision set forth herein. Venue shall be in Palm Beach County.

9. **Filing:** A copy of this Interlocal Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

10. **Liability:** The **PARTIES** recognize their respective liability for certain tortious acts of their agents, officers and employees, and agree to be responsible respectively for all claims, liability, losses, and/or causes of action that may arise from any negligent act or omission due to the acts of its agents, servants, or employees, to the extent and limits provided by law, the **PARTIES** being subject to the limits provided in Section 768.28, Florida Statutes, the State of Florida's partial waiver of Sovereign Immunity; provided, however, that this provision shall not be construed as a waiver of any right or defense that any of the **PARTIES** have under said statute. In addition, the **SCHOOL DISTRICT** will indemnify the **CITY** and the **CRA** against any loss or damage incurred by the **CITY** and the **CRA** which loss or damage is suffered or incurred as a result of the negligence of its students, contractors, and employees. Such indemnity is expressly limited, subject to and within the extent and limitations of F.S. §768.28 but in no event for any amount greater than provided by F.S. §768.28.

11. **Insurance.** The Parties recognize that the **SCHOOL DISTRICT** is self-insured. **SCHOOL DISTRICT** shall require its contractor to maintain sufficient professional, general liability automobile liability, builder's risk, and worker's compensation coverage and other insurance as required by **Exhibit "C"**, which is attached hereto and incorporated herein by reference. So long as the **SCHOOL DISTRICT** complies with this requirement, the **CITY** shall not look to the **DISTRICT** itself to correct any defects in construction which are first discovered or identified after the issuance of a Final Certificate of Occupancy or its equivalent by the appropriate building official of the **CITY**. The cost of the insurance shall be included within the lump sum

contractor's fee and the **SCHOOL DISTRICT** shall pay that fee from the Funds provided by the **CRA** for the project. Certificates of insurance evidencing the required insurance coverage shall be provided to the **CITY**, pursuant to the provisions of **Exhibit "C"**, which is attached hereto and incorporated herein by reference.

12. **Captions**: The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

13. **Severability**: If any term or provision of this Interlocal Agreement, or the application thereof to any person or circumstance, shall to any extent be held invalid or unenforceable, the remainder of this Interlocal Agreement, or the application of such term or provision, to any person or circumstance other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Interlocal Agreement shall be deemed valid and enforceable to the extent permitted by law.

14. **Entirety of Agreement**: This Interlocal Agreement and Exhibits hereto, which are incorporated herein by reference, represents the entire understanding between the **CITY**, the **CRA**, and the **SCHOOL DISTRICT** and supersedes all other negotiations, representations or agreements, either written or oral.

15. **No Third Party Beneficiaries**: This Interlocal Agreement is made solely and specifically among and for the benefit of the **PARTIES** hereto, and no other person or entity shall have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Interlocal Agreement as a third-party beneficiary or otherwise.

16. **No Interpretation Against Drafter**: No party shall be considered the author of this Interlocal Agreement since the **PARTIES** have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final Interlocal Agreement. Thus, the terms of this Interlocal Agreement shall not be strictly construed against one party as opposed to another party based upon who drafted it.

17. **Dispute Resolution**: In the event an issue arises which cannot be resolved between the **SCHOOL DISTRICT's** Atlantic High School principal and the **CITY's** Director of Neighborhood & Community Services regarding the interpretation or operation of this Agreement, the dispute shall be referred to the **SCHOOL BOARD's** Chief Operating Officer and the **CITY's** City Manager who shall both make a good faith effort to resolve the dispute, before instituting any litigation. Should the **PARTIES** be unable to resolve a dispute respecting the true construction and meaning of the Plans and specifications, the same shall be decided by a competent architect and/or engineer to be selected by the **CITY** and the **SCHOOL DISTRICT** and the costs of such services shall be borne equally by the **CITY** and the **SCHOOL DISTRICT**.

18. **Amendment:** Except as otherwise provided for in this Agreement, this Agreement may be modified and amended only by written instrument executed by the **PARTIES** hereto.

19. **Equal Opportunity Provision:** The **PARTIES** agree that no person shall, on the grounds of race, color, sex, national origin, disability, religion, ancestry, marital status, sexual orientation or gender, gender identity or expression be excluded from the benefits of, or be subjected to any form of discrimination under any activity carried out by the performance of this Agreement.

20. **Public Records.** The **PARTIES** shall comply with the applicable provisions of Chapter 119, Florida Statutes. Specifically, the **PARTIES** shall:

20.1 Keep and maintain public records required by the **PARTIES** to perform the service.

20.2 Upon request from a party's respective custodian of public records, provide the requesting party 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.

20.3 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 the respective party does not transfer the records to the **CITY**.

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

IF A PARTY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PARTY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT CITY OF DELRAY BEACH, CITY CLERK, 100 N.W. 1ST AVE., DELRAY BEACH,

**FLORIDA. THE CITY CLERK'S OFFICE MAY BE
CONTACTED BY PHONE AT 561-243-7050 OR VIA EMAIL AT
CITYCLERK@MYDELRAYBEACH.COM**

The failure of a party to comply with the provisions set forth in this Article shall constitute a Default and Breach of this Agreement.

21. **Waiver:** No waiver of any provision of this Agreement shall be effective against any party hereto unless it is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

22. **Force Majeure.** No party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of any party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of any party be deemed Force Majeure.

23. **Inspector General.** The parties agree and understand that the School District's Office of Inspector General ("Inspector General") shall have immediate, complete, and unrestricted access to all papers, books, records, documents, information, personnel, processes (including meetings), data, computer hard drives, emails, instant messages, facilities or other assets owned, borrowed or used by the City and CRA with regard to the Agreement. The City's and CRA's employees, vendors, officers, and agents shall furnish the Inspector General with requested information and records within their custody for the purposes of conducting an investigation or audit, as well as provide reasonable assistance to the Inspector General in locating assets and obtaining records and documents as needed for investigation or audit relating to the Agreement. Furthermore, the City and CRA understand, acknowledge and agree to abide by School Board Policy 1.092.

24. **Survival.** Provisions contained in this Agreement that, by their sense and context are intended to survive the suspension or termination of this Agreement, shall so survive.

25. **Waiver of Jury Trial.** EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS AGREEMENT.

IN WITNESS WHEREOF, the parties have caused this Interlocal Agreement to be executed on the day and year first above written.

Attest:

Katherine Johnson
City Clerk

CITY OF DELRAY BEACH, FLORIDA

By: Shelly Petrolia
Shelly Petrolia, Mayor

Approved as to Form
and Legal Sufficiency:

[Signature]
City Attorney

DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY

By: Shelly Petrolia
Shelly Petrolia, Chair

ATTEST:

Jeff Costello
Jeff Costello, Secretary

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

[Signature]
General Counsel
Delray Beach CRA

SCHOOL BOARD OF PALM BEACH
COUNTY, FLORIDA

By: Frank A. Barbieri, Jr.
Chairman
FRANK A. BARBIERI, JR.

Approved as to Form
and Legal Sufficiency:

Blair W. [Signature] 8/7/19
School District Attorney

Attest: Donald E. Fennoy II
Donald E. Fennoy II, Ed.D.,
Superintendent 8/14/19

EXHIBIT "A"

LEGAL DESCRIPTION

Property Control Number: 12-43-46-16-01-032-0220

Lot 22, Block 32, Map of the Town of Linton, Florida, according to the plat recorded in Plat Book 1, Page 3, Public Records of Palm Beach County, Florida, being the real property described in the Tax Deed recorded in Official Record Book 9459, Page 1196, Public Records of Palm Beach County, Florida.

EXHIBIT "B"

PLANS FOR CONSTRUCTION OF EAGLE NEST RESIDENCE #4

EXHIBIT "B"
PLANS FOR CONSTRUCTION OF EAGLE'S NEST RESIDENCE #4

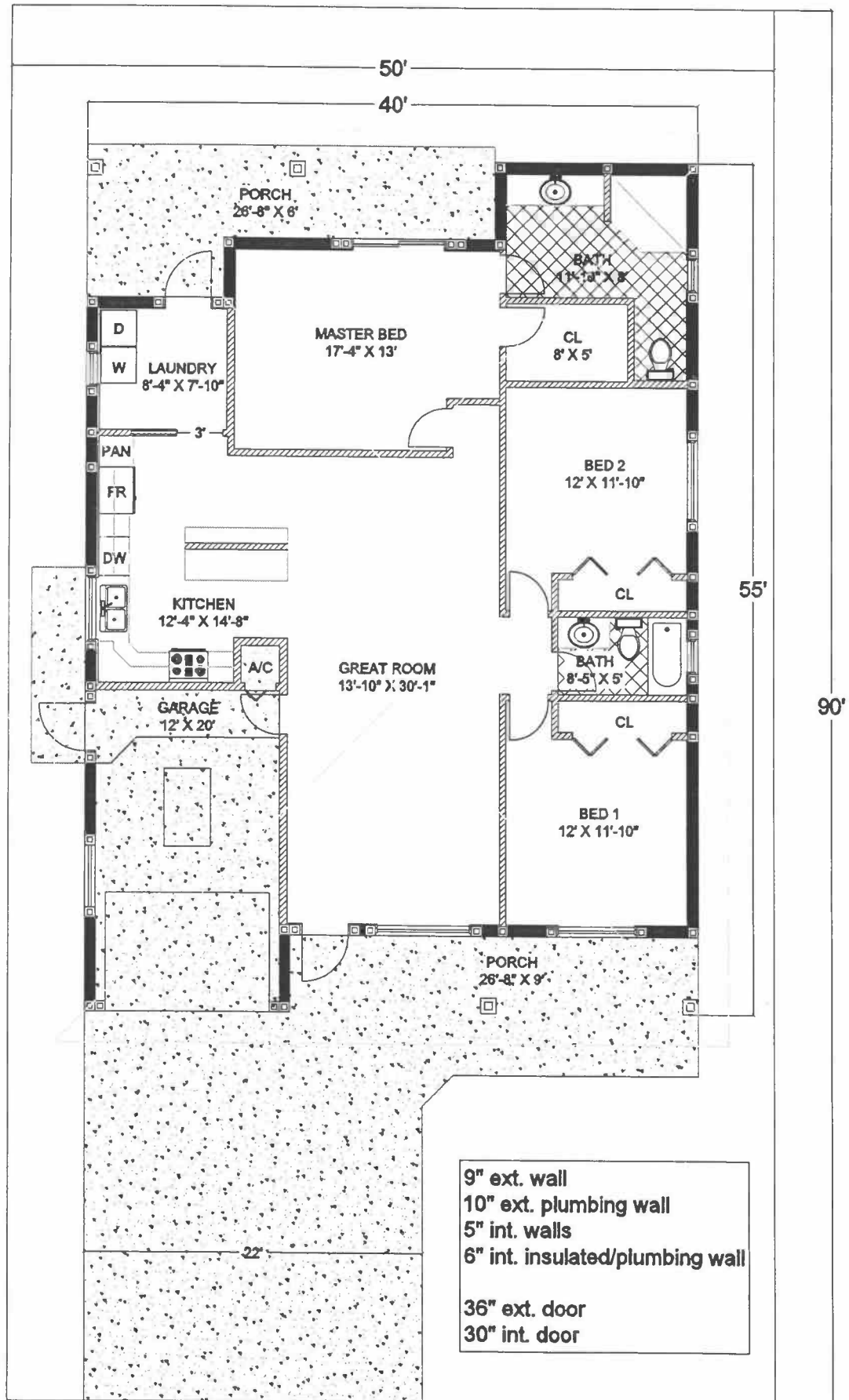


EXHIBIT "B"
PLANS FOR CONSTRUCTION OF EAGLE'S NEST RESIDENCE #4

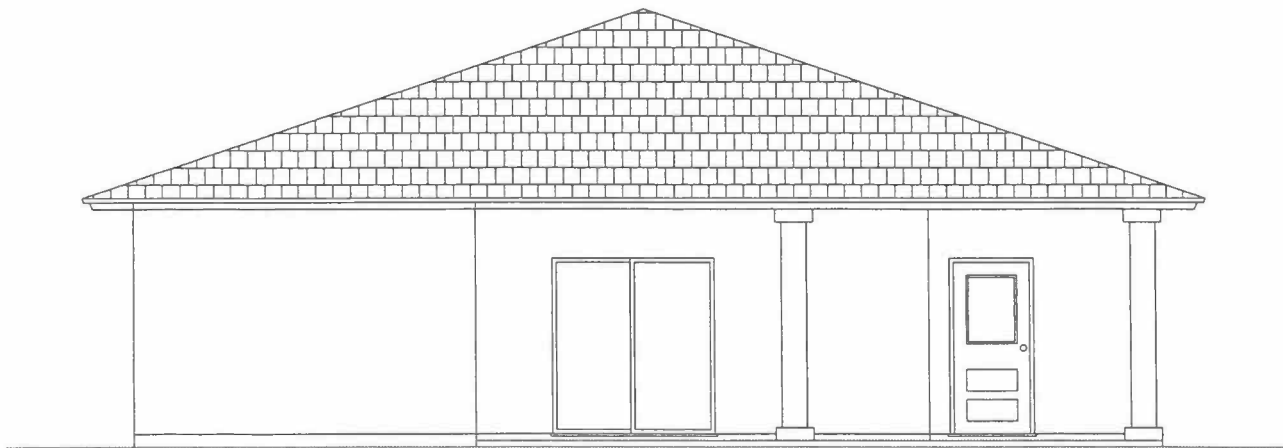


EXHIBIT "B"
PLANS FOR CONSTRUCTION OF EAGLE'S NEST RESIDENCE #4

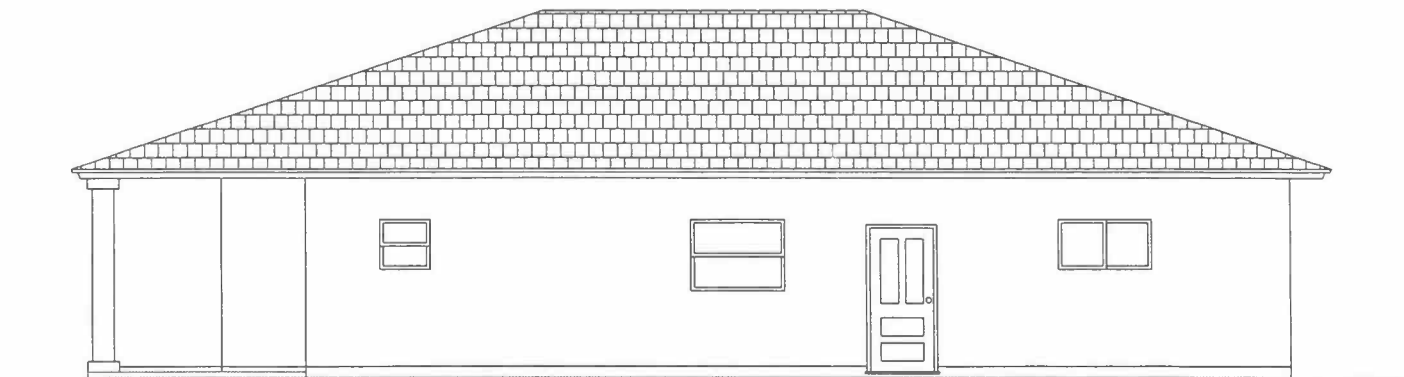
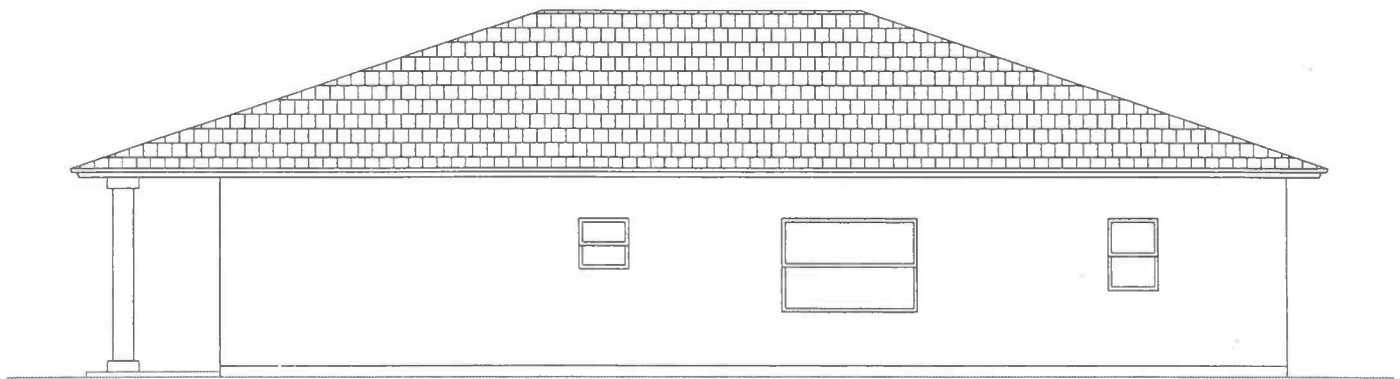


EXHIBIT "C"

EAGLE NEST PROGRAM CONTRACTOR INSURANCE REQUIREMENTS

Insurance/Bond Requirements and Conditions:

During the term of this Agreement with the City, except as otherwise stated in this Agreement, the School District's contractor shall procure and maintain insurance and bonds, if required, of the types and to the limits and conforming to requirements as specified in the following paragraphs. No work under this contract shall begin until evidence of these financial guarantees is delivered as is directed under this contract.

Commercial General Liability Insurance: Shall be written on the most current ISO Occurrence Form, or equivalent, to cover legal liabilities arising from premises and operations, independent contractors, contractual (indemnification) agreement, products and completed operations, personal injury and XCU exposures as required by the work to be performed under this Contract, unless waived by the City. The combined bodily injury and property damage limit shall not be less than \$1,000,000 per occurrence with an annual aggregate of \$2,000,000.

The School District's contractor will maintain the completed operations insurance for a period of one (1) year after the work performed under this Agreement has been completed and accepted by the City.

Automobile Liability Insurance: Shall be maintained in accordance with the laws of the State of Florida to cover the ownership, maintenance and/or use of all owned, non-owned, or hired vehicles as required by the work to be performed under this Contract. The combined bodily injury and property damage limit shall not be less than \$500,000 per occurrence.

Workers' Compensation Insurance: Shall be provided and maintained in accordance with the State of Florida's Workers' Compensation Law. Included shall be Employee's Liability Insurance to protect against on-the-job injury or illness which may not fall within the provisions of the State's Workers' Compensation Law. The limits shall be no less than \$500,000 each accident and an occupational disease limit of \$500,000 per employee/\$500,000 aggregate.

Additional Insured: The City and the CRA shall be included as additional insureds by way of the most current ISO endorsement, or its equivalent, on the School District's contractor's liability insurance policies required under this Agreement.

Subcontractor Provision: The School District will assure that all subcontracted work essentially requires the subcontractor(s) to adhere to the same insurance, safety and indemnity provisions as in this Agreement, or otherwise the School District's contractor will assume the legal liabilities of such subcontractor(s).

Safety Practices/Hazardous Waste Agreement: The School District's contractor warrants that work practices of employees and agents of the School District's contractor, and the services and/or products supplied will be provided and/or used in compliance with, although not an exhaustive reference, the standards set forth in the Occupational Safety and Health Act of 1970 and its amendments, Federal and State environmental pollution laws, and the policies and procedures of the City. The City retains the right to stop work if such compliance is not maintained.

Evidence of Insurance: Prior to the commencement by the School District's contractor or subcontractor of any work under this Agreement, the City and the CRA must receive and approve Certificates of Insurance evidencing the insurance coverages and requirements as required by this Agreement. Certified copies of the policies will be provided if requested by the City or the CRA. Renewal Certificates shall be provided to the City and CRA at least ten (10) days prior to the expiration of any policy.

If at any time the School District's contractor fails to maintain, or provide evidence of insurance coverage required by this Agreement, all work may be halted by the City.

Cancellation/Changes/Renewal: At least thirty (30) days written notice must be given to the City of any cancellation, intent to non-renew, or material reduction or change in insurance coverages.

Primary Policies: The School District's contractor's insurance will be primary to the City's insurances or self-insurance programs.

Waiver of Subrogation: The School District's contractor and its insurer(s) waive all rights of subrogation against the City, its employees, officers, directors and agents for the recovery of damages to the extent such damages are covered under any of the City's general liability, automobile liability, excess liability or property insurance and self-insurance programs.

Insurance Ratings: All insurers of the School District's contractor shall be authorized to do business in Florida, and shall have an A.M. Best rating of A-/VII, or equivalent.

Deductibles and Self-Insured Retentions: The School District's contractor is responsible for all deductibles and self-insured retentions. In the event of loss which would have been covered but for the deductible or self-insured retention, the City may withhold from payment to the School District an amount equal to the deductible or self-insured retention

should the full loss recovery not be obtained under the School District's contractor's insurance as a result.

Builders Risk Insurance: Shall be maintained by the School District's contractor during the work performed under this Agreement and shall be an all risk coverage, to include wind storm and flood as required by the City, with limits equal to 100% of the replacement value of the completed structure. This insurance shall include, or inland marine insurance shall be maintained by the School District's contractor, to provide all risk coverage for related property, to include machinery and equipment, while in transit or being stored at the work site. If necessary, the insurance policy will contain a waiver of occupancy clause which would allow the City or the School District to occupy the structure as stipulated in the Agreement without jeopardizing the insurance coverage.

Professional Liability Insurance: Shall be maintained during the life of this Agreement to cover the "errors and omissions" of the School District, or the School District's contractor will assure such coverage is provided by any person(s) acting on the School District's behalf, in an amount of at least \$1,000,000 per occurrence/annual aggregate.

Performance and Payment Bonds: The School District shall upon execution of the Agreement furnish to the City a Performance Bond (including a Maintenance Bond) and a Payment Bond each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all the School District's obligations under this Contract. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, except as otherwise provided by Law or Regulation or by the Contract Documents. The premiums for these bonds will be paid by the School District. The form and conditions of the Bonds and the Surety shall be acceptable and satisfactory to the City.

These bonds shall be in a Surety Company licensed to do business in the State of Florida, shall have a resident agent in the State of Florida and shall have a current A.M. Best financial rating of at least A-/VII.

No work under this contract shall commence until the properly executed Bond is received and approved by the City.

If the Surety on any Bond furnished by the School District is declared bankrupt or becomes insolvent or its right to do business is terminated in the state of Florida or it ceases to meet the requirements of the above paragraph, the School District shall within five days thereafter substitute another Bond and Surety, both of which must be in conformance with the above paragraph.