

**FUNDING AGREEMENT FOR FISCAL YEAR 2022-2023 BETWEEN THE
DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY AND
DELRAY BEACH PUBLIC LIBRARY ASSOCIATION, INC.**

THIS AGREEMENT is made this ____ day of _____, 2022 by and between the **DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY**, a public body corporate and politic, duly created and operated pursuant to Chapter 163, *Florida Statutes*, (hereinafter referred to as “**CRA**”), and **DELRAY BEACH PUBLIC LIBRARY ASSOCIATION, INC.**, a Florida not-for-profit corporation, (hereinafter referred to as the “**GRANTEE**”).

W I T N E S S E T H:

WHEREAS, increasing economic development through community opportunities within the Delray Beach Community Redevelopment Area is essential to the Community Redevelopment Plan (“Plan”); and

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

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

WHEREAS, Florida Statutes states that:

“Community redevelopment” or “redevelopment” means undertakings, activities, or projects of a county, municipality, or community redevelopment agency in a community redevelopment area for the elimination and prevention of the development or spread of slums and blight, or for the reduction or prevention of crime, or for the provision of affordable housing, whether for rent or for sale, to residents of low or moderate income, including the elderly, and may include slum clearance and redevelopment in a community redevelopment area or rehabilitation and revitalization of coastal resort and tourist areas that are deteriorating and economically distressed, or rehabilitation or conservation in a community redevelopment area, or any combination or part thereof, in accordance with a community redevelopment plan and may include the preparation of such a plan.

Section 163.340(9), Florida Statutes, and;

WHEREAS, the Plan states:

The library has become an important anchor to the West Atlantic Avenue Corridor and asset to the community as it provides a variety of valuable community services and programs. . . . In order to continue to promote activity and economic development in the West Atlantic area, the CRA agreed to fund a portion of the operating funds so that the library could continue to be open seven days a week and offer the same range of services and activities. The library is also creating space for small business incubation and support, a much needed service in the area.

The Plan at Part Four, Section II, Subsection 2.4, page 78, and;

WHEREAS, the **CRA** finds that this Agreement serves a municipal and public purpose, is consistent with the 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. TERM DATE: The term of this Agreement shall commence upon execution by both parties. The Agreement shall continue in full force and effect until **September 30, 2023**, unless terminated by the **CRA**.

3. FUNDING: The **CRA** shall provide funding to the **GRANTEE**, for fiscal year 2022-2023, in an amount not to exceed **FOUR HUNDRED FORTY-THREE THOUSAND AND 00/100 DOLLARS (\$443,000.00)** (the "Funding Amount"). The Funding Amount funds are to be used by the **GRANTEE** to support its organizational operations for the purpose of providing community and cultural programs in conformance with the programs/projects within the **CRA** district specified in the A-GUIDE documents. Quarterly payments in an amount not to exceed **ONE HUNDRED TEN THOUSAND SEVEN HUNDRED FIFTY AND 00/100 DOLLARS (\$110,750.00)** shall be made by the **CRA** to the **GRANTEE**. The **CRA** has the right to withhold quarterly payments until receipt of documentation from the **GRANTEE**, and until the **CRA** receives free access to all additional information and/or documentation from the **GRANTEE** that the **CRA** deems necessary, in its sole and absolute discretion, to analyze the **GRANTEE's** financial position, performance, and expenditure of funds in accordance with its approved A-GUIDE funding application.

4. FUNDING AVAILABILITY: The **CRA's** obligation to pay under this Agreement is contingent upon the **CRA** having received tax increments funds pursuant to Chapter 163, Part III, Florida Statutes and that the Funding Amount has been budgeted and appropriated by the **CRA's** Board of Commissioners.

5. A-GUIDE GUIDELINES: The A-GUIDE: Achieving Goals Using Impact Driven Evaluation Fiscal Year 2022-2023 Funding Cycle Guidelines, attached as **Exhibit “A”**, is incorporated herein by reference and made apart hereof.

6. A-GUIDE NONPROFIT PARTNER APPLICATION: The **GRANTEE’s** A-GUIDE Nonprofit Partner Application for Funding and its attachments including budget, attached as **Exhibit “B”**, is incorporated herein by reference and made apart hereof.

7. DUTY TO SUPPLEMENT: The **GRANTEE** shall supplement by providing written notice with supporting documentation to the **CRA** of *any* additions or changes to the information or documents it provided to the **CRA** in its approved A-GUIDE Nonprofit Partner Application for Funding and its attachments within thirty (30) days of learning of the aforementioned addition or change. Failure to comply with this provision is deemed a material breach of this Agreement and may be grounds for termination. Furthermore, the **CRA** may, in its sole and absolute discretion, cease and recoup all payments to the **GRANTEE** and the **GRANTEE** shall promptly refund all funding received under this Agreement to the **CRA**. Funds which are to be repaid to the CRA pursuant to this Section are to be repaid by delivering to the CRA a certified check for the total amount due within ten (10) days of the CRA's demand. In no way shall the **CRA** be subjected to any liability or exposure for the termination of this Agreement under this Section.

8. FACILITIES: The **GRANTEE** must be housed in a City or **CRA** owned facilities located in the **CRA** district as defined in the **CRA’s** Plan with a lease, revocable license or similar agreement or management agreement with the City or CRA.

9. QUARTERLY REPORTS: Prior to the issuance of quarterly payments by the **CRA** for Fiscal Year 2022-2023, as specified in this Agreement, **GRANTEE** shall provide quarterly program budget and narrative reports to the **CRA**. **GRANTEE** shall use the form, attached as **Exhibit "C"**, in order to document the **GRANTEE's** expenditure of funds and the **GRANTEE's** progress towards outcomes projected in the Goals & Outcomes Report and Budget. Supporting documentation including but not limited to invoices and cancelled checks, etc. to justify the expense of **CRA** funds for each expense over Two Thousand Five Hundred and 00/100 Dollars (\$2,500.00) shall be submitted to the **CRA** each quarter along with the quarterly budget and narrative reports ("Supporting Documentation"). The **CRA's** Executive Director may approve and accept alternative forms or information as Supporting Documentation at her sole and absolute discretion. The **GRANTEE** will also be required to submit a Quarterly Balance Sheet. In addition, the **GRANTEE** may be required to present a quarterly update to the **CRA** Board upon request. The program budget and narrative reports, supporting documentation, and Balance Sheet shall be provided to the **CRA** no later than January 31, 2023, April 30, 2023, July 31, 2023 and October 31, 2023. In addition, the **CRA** may request that the **GRANTEE** provide any additional information and/or documentation that the **CRA**, in its sole and absolute discretion, deems necessary to fully evaluate the **GRANTEE's** performance and financial status. Such additional information shall be provided, promptly and free of charge, by the **GRANTEE** to the **CRA**. The quarterly payment will not be released to the **GRANTEE** until the **CRA** receives the program budget and narrative reports, supporting documentation, Balance Sheet and any additional information and/or documentation requested and not until

such information and/or documentation is verified as complete and sufficient by the CRA.

10. GOALS AND OBJECTIVES: If the **CRA** determines pursuant to the A-GUIDE Logic Model and Evaluation Plan that the **GRANTEE** 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 the **GRANTEE** of such deficiency(ies), and the **GRANTEE** shall have fourteen (14) days from the effective date of the notice, pursuant to Section 19 of this Agreement, to cure the deficiency(ies) to the satisfaction of the **CRA**. Should the **GRANTEE** fail to cure such deficiency(ies) to the satisfaction of the **CRA**, the **CRA** Board has the right to terminate the Agreement immediately after delivery of written notice, pursuant to Section 19 of this Agreement, to **GRANTEE**. Furthermore, the **CRA** may, in its sole and absolute discretion, cease and recoup all payments to the **GRANTEE**. The **CRA's** Board shall have sole and absolute discretion with respect to the determination as to whether **GRANTEE** is filling the **CRA's** goals and objectives. Funds which are to be repaid to the CRA pursuant to this Section are to be repaid by delivering to the CRA a certified check for the total amount due within ten (10) days of the CRA's demand. In no way shall the **CRA** be subjected to any liability or exposure for the termination of this Agreement under this Section.

11. VARIANCES: Proposed changes to funding-related documents must be approved in advance by the CRA Community Engagement Director, as follows: 1) All changes to the Logic Model or Evaluation Plan; or 2) Changes of more than ten percent (10%) in any Budget line item.

12. MEDIA/PUBLIC RELATIONS: The **GRANTEE** 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**. 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. News releases; print advertising; radio and television advertising must have the **CRA's** logo clearly recognizable/audible in the advertisement. Upon request by the **CRA**, the **GRANTEE** shall provide proof of the use of the **CRA** logo as required by this paragraph for projects funded pursuant to this Agreement.

13. INDEPENDENT CONTRACTOR: Both the **CRA** and the **GRANTEE** agree that the **GRANTEE** shall at all times act as an independent contractor in the performance of its duties under this Agreement. Accordingly, the **GRANTEE** shall be responsible for the payment of all taxes including Federal and State taxes arising out of the **GRANTEE's** 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.

14. INSPECTION: The **GRANTEE** 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 and financial status provided pursuant to this Agreement. The **GRANTEE** 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. The **GRANTEE** 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**, including unlawful and/or unauthorized expenditures discovered after the termination of this Agreement, and if this Agreement is still in force, any subsequent request for payment shall be withheld by the **CRA**. The **CRA** shall have sole and absolute discretion with respect to the determination as to whether **GRANTEE** is expending funds in accordance with this Agreement. Funds which are to be repaid to the CRA pursuant to this Section are to be repaid by delivering to the CRA a certified check for the total amount due within ten (10) days of the CRA's demand.

15. **AUDIT RIGHTS.** The CRA shall have the right at any time to conduct audits including free access of the **GRANTEE's** records pertaining to the Funding Amount, this Agreement, its financial status, performance, and expenditure of funds in accordance with its approved A-GUIDE funding application and this Agreement. Such records must be maintained by the **GRANTEE** for a period of seven (7) years. The **GRANTEE** agrees to cooperate with the CRA in the performance of these activities. Such audits shall take place at a mutually agreeable date and time. If it is determined, in the CRA's sole and absolute discretion, during the course of the audit that the funding under this Agreement was used for unallowable costs, the **GRANTEE** agrees to promptly reimburse the CRA for such unallowable payments upon request, including unlawful and/or unauthorized expenditures discovered after the termination of this Agreement. The right of the CRA to conduct audits pursuant to this Agreement shall

exist for seven (7) years from the completion and/or termination of this Agreement. This Section shall survive expiration or early termination of this Agreement. Funds which are to be repaid to the CRA pursuant to this Section are to be repaid by delivering to the CRA a certified check for the total amount due within ten (10) days of the CRA's demand.

16. IMPROPER EXPENDITURE: In the event the **GRANTEE** does not expend funds in accordance with its approved A-GUIDE funding application and budget, attached as **Exhibit "B"**, the **CRA** shall provide written notice, pursuant to Section 19 of this Agreement, to the **GRANTEE** of such deficiency(ies), and the **GRANTEE** shall have fourteen (14) days from date of return receipt to cure the deficiency(ies) to the satisfaction of the **CRA**. Should the **GRANTEE** fail to cure such deficiency(ies) to the satisfaction of the **CRA**, the **CRA** shall be entitled to recoup the portion of the Funding Amount allocated and/or already disbursed to the **GRANTEE**, under the terms of this Agreement. The **CRA** shall have sole and absolute discretion with respect to the determination as to whether **GRANTEE** is expending funds in accordance with its approved A-GUIDE funding application.

17. TERMINATION FOR CONVENIENCE: The **CRA**, in its sole and absolute discretion, reserves the right to terminate this Agreement without cause upon five (5) days written notice to GRANTEE. Upon receipt or effectiveness of such notice, pursuant to Section 19 of this Agreement, the GRANTEE shall not receive any additional funds from the Funding Amount from the CRA. Furthermore, upon issuing such notice, the **CRA** may, in its sole and absolute discretion, cease all payments to the GRANTEE. In no way shall the **CRA** be subjected to any liability or exposure for the

termination of this Agreement under this Section.

18. **ATTORNEY'S FEES:** If any legal action or other proceeding is brought for the enforcement of this Agreement, compliance, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' fees, court costs and all expenses (including taxes) even if no taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled, provided, however, that this clause pertains only to the parties to this Agreement.

19. **NOTICE.** All notices, requests, and responses provided for herein shall be in writing. Such documents shall be given by deposit in the custody of the United States Postal Service, by registered or certified mail (postage prepaid), return receipt requested, and notice shall be deemed effective on the third (3rd) business day after mailing. The **CRA** and **GRANTEE** designate the following as the appropriate people and places for delivering notices and other documents:

CRA: Renée A. Jadusingh, Esq., Executive Director
The Delray Beach Community Redevelopment Agency
20 N. Swinton Avenue
Delray Beach, FL 33444
Telephone No.: (561) 276-8640
Facsimile No.: (561) 276-8558

Email Copy to: Kim Phan, Esq., Legal Advisor
Kimp@mydelraybeach.com

LIBRARY: Mykal Banta, Executive Director
100 West Atlantic Ave
Delray Beach, Florida 33444

Telephone No.: (561) 266-9488

Both parties reserve the right to designate a different representative in the future, or to change the address for notice, by providing written notice to the other party of such change.

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

- (a) Keep and maintain public records required by the **CRA** to perform under this Agreement.
- (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 Agreement term and following completion of the Agreement if the **GRANTEE** does not transfer the records to the **CRA**.
- (d) Upon completion of this Agreement, transfer, at no cost, to the public agency all public records in possession of the **GRANTEE** 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 Agreement, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the **GRANTEE** keeps and maintains public records upon completion of the Agreement, 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 THE GRANTEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CHAMBER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

KIM N. PHAN, ESQ.
561-276-8640
KIMP@MYDELRAYBEACH.COM
20 NORTH SWINTON AVENUE
DELRAY BEACH, FLORIDA 33444

21. ASSIGNMENT: Neither the **CRA** nor the **GRANTEE** shall assign or transfer any rights or interest in this Agreement.

22. GOVERNING LAW AND VENUE: This Agreement shall be governed by and in accordance with the Laws of Florida. At all times, **GRANTEE** shall comply with all applicable federal, state and local laws and regulations and failure to do so is deemed a material breach of this Agreement. The venue for any action arising from this Agreement shall be in Palm Beach County, Florida.

23. SEVERABILITY: The invalidity 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.

24. ENTIRE AGREEMENT: This Agreement shall not be valid until signed by the **CRA** Chair. 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.

[Space Left Intentionally Blank; Signature Page to Follow]

IN WITNESS WHEREOF, the DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY and GRANTEE have made and executed this Agreement and have hereunto set its hand the day and year written above.

ATTEST:

DELRAY BEACH PUBLIC LIBRARY
ASSOCIATION, INC., a Florida Not-for-
profit Corporation

By: _____

Print Name: _____

Print Name: _____

Title: _____

DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY

By: _____
Shirley E. Johnson, Chair

ATTEST:

Renée A. Jadusingh, Esq.
CRA Executive Director

APPROVED AS TO FORM:

CRA Legal Advisor

EXHIBIT "A"
A-GUIDE: Achieving Goals Using Impact Driven Evaluation Fiscal Year 2022-2023
Funding Cycle Guidelines

EXHIBIT "B"
A-GUIDE Nonprofit Partner Application for Funding and its Attachments

EXHIBIT "C"
Budget and Narrative Report

