

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF DELRAY BEACH AND
THE TREASURE COAST REGIONAL PLANNING COUNCIL**

This Interlocal Agreement is entered in this ____ day of _____ 2018 by and between the City of Delray Beach (herein referred to as “City”), and Treasure Coast Regional Planning Council (herein referred to as “Council”), each constituting a public agency as defined in Part I of Chapter 163, Florida Statutes.

WITNESSETH:

Whereas, Section 163.01, Florida Statutes, known as the “Florida Interlocal Cooperation Act of 1969, “authorizes local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the need and development of local communities; and

Whereas, Part I of Chapter 163, Florida Statutes, permits public agencies as defined therein to enter into interlocal agreements with each other to exercise jointly any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

Whereas, the City and Council desire to enter into an agreement to facilitate expansion of City’s Central Business District (CBD) zoning designation boundary along SE 5th Avenue and SE 6th Avenue from SE 4th Street to SE 10th Street; and

Whereas, expanding the CBD zoning designation is in the best interest of the citizens of the City of Delray Beach, Florida.

Now, Therefore, in consideration of the mutual covenants, promises and representations herein, the parties hereto agree as follows:

SECTION 1. PURPOSE

- A. The purpose of this Agreement is to contract with the Council to assist the City in updating the land development regulations and comprehensive plan as necessary to expand the CBD zoning district to areas identified in this Agreement.
- B. The City and Council agree to act in a spirit of mutual cooperation and good faith in the implementation of the Agreement and its purpose.

SECTION 2. GENERAL TERMS AND CONDITIONS

- A. This Agreement shall begin upon execution by both parties and shall end when the deliverables are complete as identified in the schedule contained in Attachment A unless terminated earlier in accordance with Section 4 of this Agreement.
- B. The Council shall fully perform the obligations identified in Scope of Work as identified in Attachment "A" of this Agreement to the satisfaction of the City.
- C. The City and Council agree to be governed by applicable State and Federal laws, rules and regulations.
- D. Modifications of this Agreement may be requested by any party. Changes, which are mutually agreed upon, shall be valid only when reduced to writing, duly signed by each party and attached to the original Agreement.
- E. The City and Council mutually agree to establish a mechanism to resolve any conflicts that may arise from the implementation of the Agreement by using the process included in the Intergovernmental Coordination Element of the City's Comprehensive Growth Management Plan or other mutually agreed process.
- F. The City agrees to:
 - 1. Assist in the development of deliverables set forth in this Agreement
 - 2. Process all requests for reimbursement in a timely manner

SECTION 3. RECORD KEEPING

- A. All records submitted by the Council shall be kept for three years after the termination of this Agreement and shall be sufficient and complete to verify compliance with the requirements of this Agreement.
- B. The Council shall allow access to its records during normal business hours and upon reasonable advance requests of the City, its employees and agents.

SECTION 4. TERMINATION

This Agreement may be terminated for convenience by either party on 30 days written notice, or for cause if either party fails substantially to perform through no fault of the other and does not commence correction of such nonperformance within 5 days of written notice and diligently complete the correction thereafter. The City shall be obligated to pay Council for only its work completed up to the date of termination pursuant to this paragraph.

SECTION 5. REMEDIES

This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce this Agreement will be held in 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.

SECTION 6. INDEMNIFICATION

Each party to this Agreement agrees, to the extent permitted by law, to save, defend, reimburse, indemnify, and hold harmless the other parties, and the other parties respective officers, employees, servants or agents from each party's own negligence or willful misconduct and from any and all claims, demands, damages, liabilities, causes of actions, legal or administrative proceeds, judgments, interest, attorney's fees, costs and expenses arising in any manner directly or indirectly in connection with or incidental to the performance of this Agreement. Nothing in this provision shall be construed as consent by the parties to be sued, nor as a waiver of sovereign immunity beyond the limits provided for in Section 768.28, Florida Statutes.

SECTION 7. SEVERABILITY

Should any provision of this Agreement be declared invalid or unenforceable by a court of competent jurisdiction, the same shall be deemed stricken here from and all other terms and conditions of this Interlocal Agreement shall continue in full force and effect as if such invalid provision had never been made a part of the Interlocal Agreement.

SECTION 8. ENTIRETY OF AGREEMENT

This Agreement represents the entire understanding between the parties. This Agreement may be modified and amended only by written instrument executed by parties hereto.

SECTION 9. NOTICE AND CONTACT

All notices provided under or pursuant to the Agreement shall be in writing, delivered either by hand, overnight express mail, or by first class, certified mail, return receipt requested, to the representatives identified below at the address set forth below:

For the City:

City Manager – Mark R. Lauzier
100 N.W. First Avenue, Delray Beach, Florida 33444
City Attorney – Max Lohman, Esquire
100 N.W. First Avenue, Delray Beach, Florida 33444

For The Council:

Michael J. Busha – As Its Executive Director
421 SW Camden Avenue, Stuart, Florida 34994

SECTION 10. FUNDING/CONSIDERATION

A. This is a fixed fee Agreement. As consideration for performance of work rendered under this Agreement, the City agrees to pay the Council a fixed fee not to exceed Fifty Thousand and 00/100

dollars (\$50,000.00), including travel, out-of-pocket expenses (printing and reproduction costs), film processing, mail, couriers and other costs related to the services provided.

- B. The satisfactory completion of deliverables by the Council, as accepted by the City and submission of an invoice to the City, shall be considered the Council's request for payment according to the schedule contained in Attachment A. The City shall pay the Council within twenty (20) days of receipt of an invoice.

SECTION 11. INVALIDITY OF CLAUSES

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

SECTION 12. VENUE

To the extent allowed by law, the venue for any action arising from this Agreement shall be in Palm Beach County, Florida.

SECTION 13. ATTORNEY'S FEES

Any costs or expense (including reasonable attorney's fees) associated with the enforcement of the terms and conditions of this Agreement shall be borne by the respective parties, however, this clause pertains only to the parties to this Agreement.

SECTION 14. DELEGATION OF DUTY

Nothing contained herein shall deem to authorize the delegation of the constitutional or statutory duties of the officers of the City, CRA or the Council.

SECTION 15. FILING

This Agreement and any subsequent amendments thereto shall be filed with the Clerk of the Circuit Court of Palm Beach County pursuant to Section 163.01(11), Florida Statutes.

SECTION 16. EQUAL OPPORTUNITY PROVISION

The City, CRA and the Council agree that no person shall, on the grounds of race, color, sex, national origin, disability, religion, ancestry, marital status or sexual orientation be excluded from the benefits of, or be subject to, any form of discrimination under any activity carried out by the performance of the Agreement.

SECTION 17. EFFECTIVE DATE

This Agreement shall become effective upon its approval by the City Commission and the Treasure Coast Regional Planning Council, the due execution thereof by the proper officer of the Regional Planning Council and the City and the filing of a certified copy hereof with the Clerk of the Circuit Court of Palm Beach County, Florida.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

ATTEST:

City of Delray Beach

By: _____
Katerri Johnson, City Clerk

By: _____
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency

By: _____
R. Max Lohman, City Attorney

Date: _____

ATTEST:

Treasure Coast Regional Planning Council

By: _____
Phyllis Castro
Accounting Manager

By: _____
Michael J. Busha
As its Executive Director

ATTACHMENT A
UPDATE TO THE
LAND DEVELOPMENT REGULATIONS
FOR
THE CITY OF DELRAY BEACH
SCOPE OF SERVICES

GENERAL

The City of Delray Beach, Planning and Zoning Division seeks professional services associated with consideration to expand the Central Business District (CBD) zoning designation boundary along SE 5th Avenue and SE 6th Avenue from SE 4th Street to SE 10th Street. The southern boundary of the CBD zoning designation currently ends at SE 4th Street, where the General Commercial (GC) begins and spans to SE 10th Street. Within this area there are also two properties zoned Neighborhood Commercial (NC) and Professional Office District (POD). The zoning district adjacent to the properties within the described area primarily consist of single-family residential (R-1-A and R-1-AA), in addition to multi-family residential (RM), Open Space (OS), and Planned Commercial (PC) designations. The expansion is expected to consist of rezoning to CBD from GC for 45 properties, from NC for one property, and from POD for one property. The future land use amendments would require a change to Commercial Core (CC) from GC for 45 properties, and from Transitional (TRN) for two properties.

As such, the Treasure Coast Regional Planning Council (Council) is pleased to submit this scope of services. Council views this effort as a series of interrelated tasks to be completed by the Council and City in accordance with this Attachment, and the Agreement between the City and Council.

The project boundaries shall be limited to an area as described in Attachment B: Project Boundary Map.

PROJECT TIMEFRAME

The project timeframe will commence upon execution of this Agreement. It is anticipated that all tasks contemplated within the Scope of Services shall be substantially complete no later than 12 months from this date. The project timeframe is outlined as follows:

September-December 2018

- Staff kick-off meeting and study area tour
- Collection and review of existing documents and property information
- Preparation of comparative analysis of General Commercial and CBD zoning districts
- Identification of unique conditions and potential LDR amendments
- Identification of potential Comprehensive Plan Future Land Use Map amendments
- Public workshop to present project purpose and initial findings
- Staff meeting to confirm direction of LDR and Comprehensive Plan amendments

December 2018-March 2019

- Draft LDR Amendments
- Draft Comprehensive Plan Future Land Use Map Amendment
- Review of existing sites for nonconformities created by rezoning and future land use designation amendments

March 2019-April 2019

- Submit Draft LDRs and Comprehensive Plan Amendments for staff review (14 day review period)
- Revise LDRs and Comprehensive Plan Amendments based on staff and public comment
- Draft Ordinances for LDRs and Comprehensive Plan Future Land Use Map amendments

April 2019-August, 2019

- Public Hearing scheduled with Planning and Zoning Board
- Revisions based on comments
- Adoption Hearings with City Commission

The schedule above relies heavily upon City staff providing the needed contacts, information, and review comments/edits within a timely manner. The City will provide all necessary legal advertising for the approval process. The City will provide the notification, venue and other logistics for community meetings. Special workshop/hearings may be necessary to ensure adequate opportunity for City Commission review within the desired timeframe. Council will provide the draft documents based on the schedule above; however, the timeliness of approval by all City boards cannot be guaranteed.

COST

Total cost to perform tasks detailed in this Scope of Services: \$50,000

TASKS AND DELIVERABLES

In partnership with the City, the Council will perform the following Scope of Services:

1. Comparison and analysis of the General Commercial and CBD zoning districts, highlighting the differences between the districts, and illustrating the overall benefit of expanding the CBD within the defined area.
2. Collection of property information and existing development data within the project boundary area, including existing uses, lot and block sizes, building or land vacancies, floor area ratio calculations, open space percentages, and square footages.
3. Review of the existing sites and analysis of any nonconformities (i.e. use, setbacks, lot dimensions or size, signage, parking, etc.) that would be created by the rezonings and future land use designation amendments.
4. Evaluation of impacts of change to the proposed CBD designation on adjacent single-family neighborhoods; recommend potential mitigation strategies, such as the transfer of height and

stories or density/intensity to the areas between SE 5th and 6th Avenues and additional rear setbacks or reduction in stories, additional modification to the street/alley network, etc.

5. Draft of amendments to the Comprehensive Plan resulting from the proposed future land use designations, such as floor area ratio requirements, density, etc., and preparation of those amendments, including Ordinances.
6. Draft of amendments to the Land Development Regulations resulting from the proposed rezonings, such as an updated/new Regulating Plan, additional CBD map exhibits, revisions to the use table, creation of a new sub-district (if recommended), revisions to the development standards (i.e. density, height, workforce housing requirements) for the new sub-district, appropriate parking requirements, landscaping and civic open space requirements, and preparation of those amendments, including Ordinances.
7. Identification of opportunities for specific development incentives in exchange for specific community benefits, such as higher requirements for green building certification, provision of workforce or affordable housing units, provision of larger civic open spaces, etc. that balance more intense development with a benefit to the community.
8. Assist the Planning and Zoning staff in the notification and coordination of community and public meetings.
9. Prepare exhibits/illustrations comparing the existing conditions and potential conditions under new land development regulations.
10. Attendance and presentation at meetings with the Planning and Zoning Board, City Commission, and community meetings.

Reports

- General Commercial to CBD analysis;
- Ordinances for rezonings, future land use designations, Comprehensive Plan and LDR amendments, including an updated/new Regulating Plan for the area.

Meetings (Attendance & PowerPoint Presentations if requested)

- (2) City staff meetings for review of LDR/Comprehensive Plan draft documents and other deliverables
- (1) Public Workshop
- (1) Planning and Zoning Board
- (2) City Commission

FEE DISBURSEMENT

- 10% (\$ 5,000) Upon completion of the kick off meeting with Staff.
- 40% (\$20,000) Upon completion of the public workshop, GC to CBD analysis, identification of unique conditions to be addressed in the LDRs, and staff meeting confirming direction of the code change.
- 40% (\$20,000) Submit the first draft of the Land Development Regulations and Comprehensive Plan Amendments.
- 10% (\$ 5,000) Submit the final draft of the Land Development Regulations and Comprehensive Plan Amendments to be considered for adoption.

Total \$50,000

PUBLIC INPUT AND INVOLVEMENT

Public input and involvement opportunities will be provided throughout the process to engender support and understanding of the proposed expansion and revision of the zoning district boundary and comprehensive plan amendment.

TCRPC staff will also be available to attend all staff-level meetings (either in person or via conference call) necessary to ensure the success of the project.

FEES AND REIMBURSABLE EXPENSES

Professional services described in this proposal will be performed for a fixed fee in the amount of \$50,000. This includes travel, out of pocket expenses (printing and reproduction costs), and other costs related to the professional services Council is providing. It does not include advertisement costs for the above mentioned public hearings/workshops, food to be provided to the public attending public hearings/workshops, or rental of space associated with public hearings (should it be necessary).

ADDITIONAL SERVICES

Additional work beyond what is stipulated in the Project Timeframe and Tasks and Deliverables sections of this Agreement will be billed at the hourly labor fee in effect at the time services are provided, not to exceed a rate of \$200.00 per hour, or as a lump sum basis. All additional services and fees, along with any associated time extensions, will be approved by the City Manager prior to undertaking the services. These services include but are not limited to the following:

1. Additional public presentations
2. Traffic analysis, such as volume, intersection evaluation, or signalization needs
3. Economic impacts, such as tax base increase or workforce housing analysis
4. Infrastructure impacts regarding water, sewer, and stormwater systems.

The total fee for all the professional services, including those outlined in the Project Timeframe, Tasks and Services, and Additional Services sections shall not exceed \$75,000.

FORMAT OF DELIVERABLES

Council shall provide the City with final work products in the following format:

Council shall print written documents (1 copy each only) on paper, as appropriate, and shall also provide digital copies of such documents in an appropriate format (PDF and Word).

Council shall provide graphic documents, including drawings, diagrams, maps, or other comparable materials (1 copy each only) on paper, as appropriate, and in a digital format (JPG, AutoCAD) suitable for reproduction and/or editing.

Council shall provide all presentations presented at public meetings, hearings, and workshops in PowerPoint format.

Attachment B Project Boundary Map

