

INDEPENDENT CONTRACTOR AGREEMENT

THIS IS AN AGREEMENT, made this ____ day of _____, 2019, by and between:

THE DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY, a public agency organized and existing under the laws of the State of Florida, with a business address of 20 N. Swinton Avenue, Delray Beach, Florida 33444, hereinafter referred to as "CRA"

and

THE ATLANTIC CURRENT, LLC a Florida limited liability company, with a principal address of 7491 N. Federal Highway, Suite C5-119, Boca Raton, FL 33487, hereinafter referred to as "CONTRACTOR". CRA and CONTRACTOR may hereinafter collectively be referred to as the "PARTIES".

WITNESSETH:

WHEREAS, the CRA desires to utilize the services of an experienced professional marketing and public relations firm to assist with communication services; and

WHEREAS, the CONTRACTOR possesses specific skills, expertise, experience and knowledge necessary to provide the CRA with the communication services; and

WHEREAS, the CRA deems it to be in the best interest of the CRA to enter into this Agreement with the CONTRACTOR for communication services.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the CRA and CONTRACTOR as follows:

1. Services; Responsibilities, and Time for Performance. CONTRACTOR agrees to provide communication services, as more particularly described in the "Scope of Services," which is attached to this Agreement as **Exhibit "A"**, and incorporated herein by reference.
 - 1.1 CONTRACTOR shall furnish all services, labor, and materials necessary and as may be required in the performance of this Agreement. The CONTRACTOR shall perform all of its obligations pursuant to this Agreement in a professional and timely manner.
 - 1.2 CONTRACTOR hereby represents to the CRA, with full knowledge that the CRA is relying upon these representations when entering into this Agreement with CONTRACTOR, that CONTRACTOR has the professional expertise, experience and manpower to perform the services to be provided by CONTRACTOR pursuant to the terms of this Agreement.
2. Compensation and Method of Payment. CONTRACTOR has agreed to provide the Scope of

Services to the CRA for a sum of Two Thousand and 00/100 Dollars (\$2,000.00), per month, and a total sum of Twenty-Four Thousand and 00/100 Dollars (\$24,000.00), for the term, the "Contract Price", as provided in the Scope of Services attached hereto as **Exhibit "A"**. The CRA shall pay CONTRACTOR within thirty (30) days of receipt of an invoice documenting the services provided by CONTRACTOR pursuant to this Agreement, and the completion to the sole and absolute discretion of the CRA.

- 2.1 Subject to the prior written approval of the CRA, the CRA shall be responsible for any additional hourly charges, and the payment of third party charges for production related items. Such costs include printing, copywriting, stock photography, rights, and royalties. The CONTRACTOR shall submit all proposed charges to the CRA's Executive Director for approval prior to CONTRACTOR authorizing the work that would result in such charges.
- 2.2 The CRA shall not be responsible for any additional costs, fees, or expenses unless the CRA executes a written amendment to this Agreement that provides for any consideration to be paid by the CRA.
3. Term and Termination. This Agreement shall take effect as of the date of execution by the CRA, and shall be effective until for a one year term.
 - 3.1 This Agreement may be terminated by either party for cause, or by the CRA for convenience, upon thirty (30) days written notice by the CRA to CONTRACTOR. Upon termination by CRA, CONTRACTOR shall cease all work performed hereunder and CRA shall pay to CONTRACTOR any earned and unpaid portion of the compensation due CONTRACTOR. Upon payment of any compensation due CONTRACTOR, all documents, drawings, programs, databases, and work products developed or produced under this Agreement shall be furnished to the CRA upon termination.
4. Indemnification. The CONTRACTOR agrees to protect, defend, indemnify, and hold harmless the CRA, its officers, employees, and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges, and other expenses or liabilities of every kind in connection with or arising directly out of the work agreed to be performed herein, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of CONTRACTOR, its employees, servants, agents, and subcontractors. Without limiting the foregoing, any and all such claims, suits, etc., relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copyright or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court, is included in the indemnity. The CONTRACTOR hereby agrees to indemnify and save and hold harmless the CRA, any of its departments, agencies, officers, or employees from all damages, claims or liabilities and expenses including court costs, attorney's fees, and paralegal expenses at both the trial and appellate levels arising out of or resulting in any way from the performance of professional services for the CRA in the CONTRACTOR's capacity as a CONTRACTOR, including, but not

limited to any claims for copyright, trademark, patent, or intellectual property infringement or unauthorized use of such copyright, trademark, or patent, or other intellectual property right, and caused by any error, omission, or negligent act of the CONTRACTOR or any person employed by the CONTRACTOR, or of any others for whose acts the CONTRACTOR is legally liable.

5. Independent Contractor. This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that the CONTRACTOR is an independent contractor under this Agreement and not the CRA's employee for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers Compensation Act, and the State unemployment insurance law. The CONTRACTOR shall retain sole and absolute discretion in the judgment of the manner and means of carrying out CONTRACTOR's activities and responsibilities hereunder. The CONTRACTOR agrees that it is a separate and independent enterprise from the CRA, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between the CONTRACTOR and the CRA and the CRA will not be liable for any obligation incurred by CONTRACTOR, including but not limited to unpaid minimum wages and/or overtime premiums.
6. Assignments; Amendments. This Agreement, or any interest herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by CONTRACTOR without the prior written consent of CRA. For purposes of this Agreement any sale or transfer of assets, stocks or worth of CONTRACTOR shall be deemed a prohibited assignment and will result in the automatic termination of this Agreement. However, this Agreement shall run to the CRA and its successors and assigns.
7. The CONTRACTOR warrants that its services are to be performed within the limits prescribed by the CRA with the usual thoroughness and competence of its trade.
8. Attorney's Fees. In the event it becomes necessary for either party herein to seek legal means to enforce the terms of the Agreement, the prevailing party shall be entitled to its reasonable attorney fees and court costs and paralegal fees at both the trial and appellate levels, to the extent permitted by law.
9. Governing Law. This Agreement shall be governed by and construed in accordance with the Laws of the State of Florida.
10. Venue. Venue for litigation concerning this Agreement shall be in Palm Beach County, Florida.
11. Severability. If any portions of this Agreement shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions hereof, and this Agreement

shall be construed and enforced as if such provisions had not been included.

12. Notices. Whenever either party desires to give notice unto the other, it must be given by written notice, sent by certified mail, addressed to the party for whom it is intended at the place last specified or by facsimile transfer with confirmation thereof. The place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective place for giving of notice, to-wit:

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

Copy to: David N. Tolces, Esq.
Goren, Cherof, Doody & Ezrol, P.A.
3099 East Commercial Blvd., Suite 200
Fort Lauderdale, FL 33308
Telephone: (954) 771-4500
Facsimile: (954) 771-4923

For Contractor: The Atlantic Current, LLC
Attn: Dustin P. Wright, Manager
7491 N Federal Highway, Suite C5-119
Boca Raton, FL 33487
Telephone: (561) 716-6286

13. Public Records. CONTRACTOR shall comply with the applicable provisions of Chapter 119, Florida Statutes. Specifically, CONTRACTOR shall:

13.1 Keep and maintain public records required by the CRA to perform the service.

13.2 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.

13.3 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 CONTRACTOR does not transfer the records to the CRA.

13.4 Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the CONTRACTOR 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 the CONTRACTOR 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 THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT

**KRISTA WALKER
561-276-8640
WALKERK@MYDELRAYBEACH.COM
20 NORTH SWINTON AVENUE
DELRAY BEACH, FLORIDA 33444**

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

14. Ownership. All accepted final work product provided pursuant to this Agreement and the Scope of Services will be the property of the CRA. Ideas in the design development states, which are not accepted, remain the intellectual property of the CONTRACTOR, and may be used, in part, during the course of other assignments. This does not apply to any intellectual property owned by the CRA previous to the CONTRACTOR's engagement pursuant to this Agreement.
15. Promotional Usage. The CONTRACTOR reserves the right to use work created for the CRA in the CONTRACTOR's portfolio, website, social media, press releases, advertising award entries and promotional materials, subject to the prior approval of the CRA.
16. Certification and Scrutinized Company Requirements. The CRA shall have the option to terminate this agreement/contract if CONTRACTOR:

- 16.1 Is found to have submitted a false certification as provided under section 287.135 (5) Florida Statutes;

- 16.2 Has been placed on the Scrutinized Companies that Boycott Israel List;
 - 16.3 Has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or
 - 16.4 Has been engaged in business operations in Cuba or Syria.
17. Patriot Act Requirements. Each party shall take any actions that may be required to comply with the terms of the USA Patriot Act of 2001, as amended, any regulations promulgated under the foregoing law, Executive Order No. 13224 on Terrorist Financing, any sanctions program administrated by the U.S. Department of Treasury's Office of Foreign Asset Control or Financial Crimes Enforcement Network, or any other laws, regulations, executive orders or government programs designed to combat terrorism or money laundering, if applicable, with respect to the agreement/contract. Each party represents and warrants to the other party that it is not an entity named on the List of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of Treasury, as last updated prior to the date of this agreement/contract.
18. Default. In the event the CONTRACTOR fails to comply with the provisions of this Agreement, the CRA may declare the CONTRACTOR in default and notify it in writing, giving a reasonable time to cure the default, but in no event shall this time period exceed five (5) calendar days unless otherwise agreed to by the parties. In such event, the CONTRACTOR shall only be compensated for any services completed as of the date written notice of default is served. Furthermore, the amount of compensation to the CONTRACTOR in the event of default, shall be determined by deducting any additional costs, charges and/or damages incurred by the CRA due to the CONTRACTOR'S default.
19. Acceptance of Agreement. Execution of this Agreement by both parties signifies agreement with all the terms and conditions and serves as a notice to proceed.
20. To the extent there is any conflict between the terms and conditions of this Agreement and any Exhibit to the Agreement, the terms of this Agreement shall control.

IN WITNESS WHEREOF, the DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY Board of Commissioners has made and executed this Agreement on behalf of the CRA, and The Atlantic

Current, LLC have hereunto set its hand the day and year above written.

CRA:

Shelly Petrolia, Chair

ATTEST:

Renee Jadusingh, Executive Director

I HEREBY APPROVE THIS AGREEMENT
AS TO FORM

GENERAL COUNSEL

CONTRACTOR:

The Atlantic Current, LLC, a Florida limited liability
company

Print Name: _____

Title: _____

ATTEST:

Print Name: _____
Title: _____

STATE OF FLORIDA)
)ss:
COUNTY OF PALM BEACH)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ as _____, of The Atlantic Current, LLC, and acknowledged executed the foregoing Agreement as the proper official of The Atlantic Current, LLC, for the use and purposes mentioned in it, and that the instrument is the act and deed of The Atlantic Current, LLC.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this ____ day of _____, 2019.

NOTARY PUBLIC

My Commission Expires:

EXHIBIT "A"

SCOPE OF SERVICES