

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF DELRAY BEACH AND THE
DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY
FOR FUNDING CONSTRUCTION/PROFESSIONAL SERVICES
2019/2020 FISCAL YEAR
(NE 3rd Street/Avenue)**

THIS AGREEMENT is made this ____ day of _____, 2020, by and between the **CITY OF DELRAY BEACH**, a Florida municipal corporation, (hereinafter referred to as "**CITY**"), and 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 the "**CRA**").

W I T N E S S E T H :

WHEREAS, the **CITY** will be performing construction on NE 3rd Street/Avenue (the "Project") which is located in the CRA's Community Redevelopment Area; and

WHEREAS, the **CRA** has approved funding for the Project for the 2019-2020 fiscal year; and

WHEREAS, the **CITY** and the **CRA** find that this Agreement serves a municipal and public purpose, is consistent with the Community Redevelopment Plan, and the requirements of Chapter 163, Florida Statutes.

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.
2. Duties of the **CRA**. With respect to the Project, the **CRA** agrees to provide funding in an amount not to exceed One Million Six Hundred Fifty-One Thousand Two Hundred Ninety-Eight Dollars and Twenty-One Cents (\$1,651,298.21) for the design and construction of the Project.

3. Duties of the CITY. The **CITY** agrees to coordinate with the design engineer to finalize all design, engineering, and construction documents, to work with the design engineer to obtain the easements from the adjacent property owners for parking along the public rights-of-way, to draft and produce the solicitation documents, to coordinate the hiring of a contractor to construct the Project through the **CITY's** solicitation process, to manage the Project, and to hire an independent project manager to manage construction of the Project, if needed.

4. The **CITY** shall provide a written request to the **CRA** for approval of any change order that will result in an increase in the funding to be provided by the **CRA**. The **CITY** shall submit the written request to the **CRA** prior to the execution of any work covered by the change order. Failure to obtain the **CRA's** approval of the funding for the change order, prior to the execution of the work, shall be a basis for the **CRA** to deny additional funding to the **CITY** for the Project identified in the change order. The **CITY** and the **CRA** agree and acknowledge that the approval of a change order does not require an amendment to this Agreement.

5. The term of this Agreement shall commence upon execution by both parties, and this Agreement shall continue until either party delivers written notice to the other party of its intent to terminate this agreement, or 60 days after the City receives the final invoice from the contractor or professional for the Project. Notwithstanding the foregoing, once the City has executed a contract with a contractor or professional for the Project, the **CRA** shall not be allowed to withdraw its funding for the Project. If the **CITY** terminates this Agreement, the **CITY** shall refund to the **CRA** any funding that was provided to the **CITY** but was not paid to the contractor or professional. If the total

funds the **CITY** requires to complete the Project is less than the amount paid by the **CRA** to the **CITY** for the Project, the **CITY** shall refund to the **CRA** any and all funds provided to the **CITY** that exceed the amount the **CITY** paid to the contractor or professional for the Project.

6. Once the **CRA** provides any funding for the Project, the **CITY** shall provide the **CRA** with monthly reports detailing the progress of the Project, including, but not limited to, the contract amount, the amount of funds paid to the contractor, the status of the Project, and the total of any change orders related to the Project.

7. The **CITY** 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 used to publicize **CRA** contracted activities must be approved by the **CRA** Executive Director or her designee prior to being posted. Upon request by the **CRA**, **CITY** shall provide proof of the use of the **CRA** logo as required by this paragraph for the Project funded pursuant to this Agreement.

8. This Interlocal Agreement shall be filed pursuant to the requirements of section 163.01(11), Florida Statutes.

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

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

11. Public Records. **CITY** and **CRA** are public agencies subject to Chapter 119, Florida Statutes. The **CITY** and **CRA** shall comply with all public records laws in accordance with Chapter 119, Florida Statutes. In accordance with state law, City and CRA agree to:

11.1 Keep and maintain all records required by the **CITY** and **CRA** to perform the service.

11.2 Upon request from the **CITY** or **CRA**'s custodian of public records, provide the **CITY** or **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.

11.3 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 **CITY** or **CRA** does not transfer the record to the **CITY** or **CRA**.

11.4 Upon the termination of the contract, the **CRA** shall transfer, at no cost to the **CITY**, all public records in possession of the **CRA** and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the **CRA** keeps and maintains

public records upon completion of the contract, the **CITY** shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the **CITY**, upon request from the **CITY's** custodian of public records in a format that is compatible with the information technology systems of the **CITY**. All records shall be transferred to the **CITY** prior to final payment being made by the **CRA**.

11.5 If **CITY** or **CRA** does not comply with this section, the **CITY** or **CRA** shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with state law.

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

561-243-7050

CITYCLERK@MYDELRAYBEACH.COM

12. Inspector General. **CRA** is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this Agreement, and may demand and obtain records and testimony from the **CRA**, and its sub licensees and lower tier sub licensees. The **CRA** understands and agrees that in addition to all other remedies and consequences provided by law, the failure of the **CRA** or its sub licensee or lower tier sub licensees to fully cooperate with the Inspector General when requested may be deemed by the **CITY** to be a material breach of this Agreement justifying its termination.

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

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

15. This Agreement shall not be valid until signed by both parties.

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

ATTEST:

CITY OF DELRAY BEACH, FLORIDA

City Clerk

By: _____
Shelly Petrolia, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Lynn Gelin, City Attorney

DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY

By: _____
Shelly Petrolia, Chair

ATTEST:

Renée A. Jadusingh, Esq., Executive Director

APPROVED AS TO FORM:

CRA General Counsel