

**AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES BETWEEN THE
DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY AND
CALVIN, GIORDANO & ASSOCIATES, INC.**

THIS AGREEMENT ("AGREEMENT") is made and entered into as of the 1 day of October 2018, by and between the **DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY**, an entity created pursuant to Chapter 163, Part III, Florida Statutes, (hereinafter referred to as the "CRA"), and **CALVIN, GIORDANO & ASSOCIATES, INC.**, a Florida corporation (hereinafter referred to as the "ARCHITECT").

WITNESSETH:

WHEREAS, the CRA is desirous of retaining a firm to provide professional landscape architectural services on an as needed basis by the CRA,

WHEREAS, the parties are desirous of providing within the terms of this Agreement the flexibility for additional specific projects to be undertaken by the ARCHITECT at the direction of the CRA.

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained the parties hereby agree as follows:

1. The Scope of Work is for General Consulting Service and other landscape architectural services which address landscape architectural projects as they present themselves during the agreement period.

The CRA anticipates that they may be in need of landscape architectural services related to community redevelopment and implementation of the Community Redevelopment Plan during the term of this Agreement. The professional general consulting landscape architectural services provided throughout the term of this Agreement are needed in support of the community redevelopment effort, including, but not limited to providing planning, design, construction documents, bidding, permitting, and construction administration services for various improvements on a continuing contract basis for projects in the Downtown Delray Beach Master Plan, West Atlantic Avenue Redevelopment Plan, the City of Delray Beach Community Redevelopment Plan, and the Southwest Area Neighborhood Redevelopment Plan for which construction costs generally do not exceed \$2,000,000.00; and study activity when the fee for such professional service does not exceed \$200,000, pursuant to Florida Statute Section 287.055 (Consultants' Competitive Negotiation Act).

At this point and time, the level of work effort on any and all of the reference projects has not been determined. No assurance is given that any of the projects will materialize during the term of this Agreement and that the CRA specifically reserves the right to award any or all of said projects to its other general consultant or to other landscape architectural firms pursuant to the Florida Statutes Consultants

Competitive Negotiations Act and applicable procurement resolutions of the CRA.

The following definitions and general conditions shall apply to this AGREEMENT and subsequent addendum:

- A. THE SCOPE OF WORK may be implemented in phases as set forth by this Agreement and by WORK ASSIGNMENTS, which are attached hereto and made a part hereof, and as also may be added as approved by the CRA from time to time.
- B. A WORK ASSIGNMENT is a form to be used to authorize work, projects, and services. The form shall be executed by the CRA's and ARCHITECT's representatives. A CRA project tracking name or number shall be identified on the form. A sample form of the service authorization is attached as **Exhibit "B"** to this AGREEMENT. The projects, works, and services to be performed by the ARCHITECT, and time for completion of the particular phase of the work by ARCHITECT, shall be authorized by a WORK ASSIGNMENT. The WORK ASSIGNMENT shall include the scope of work to be performed; the budget cost, complete with an itemization of man-hours, wage rates, reimbursable expenses, and other related costs; schedule for completion and name of project manager. The ARCHITECT agrees not to bill the CRA for meetings required to negotiate or finalize the WORK ASSIGNMENT. The WORK ASSIGNMENT shall be approved by the CRA Board, and signed by the CRA's authorized representative and the ARCHITECT's authorized representative.
- C. PHASES: A phased approach may be utilized. The CRA and the ARCHITECT shall have the right to negotiate the terms of each phase as contained within each WORK ASSIGNMENT, and to reject any work assignment, if the parties cannot agree to the terms of the service authorization. The ARCHITECT agrees not to bill the CRA for meetings required to negotiate or finalize the scope of work within each phase. In the event the parties cannot agree, the CRA may select the next proposer or seek additional proposals in order to complete the subsequent phase(s) of the project. This phased approach shall not waive the CRA's right to terminate the ARCHITECT's contract during any phase of the project.

2. The term of this Agreement shall be for a period of three (3) years commencing October 1st, 2018. The CRA reserves the right to renew this Agreement for two (2) additional one (1) year terms, by providing the ARCHITECT with written notice of CRA's election to do so, prior to the expiration of the then current term. Notwithstanding the foregoing, either party may cancel this Agreement, at any time, upon thirty (30) days advance written notice.

3. The ARCHITECT shall be deemed to be the "ARCHITECT of Record" for the CRA for specific projects assigned to the ARCHITECT during the term of this Agreement

and the Executive Director or designee of the CRA is designated as the CRA's liaison with the ARCHITECT. The ARCHITECT designates Tammy Cook-Weedon, RLA, as its liaison with the CRA. Any changes to the above designations shall be provided in writing to the CRA and shall be approved by the CRA's Executive Director. The general duties of the ARCHITECT are as follows:

- A. The relationship of the ARCHITECT to the CRA will be that of a professional CONSULTANT, and the CONSULTANT will provide the professional and technical services required under this AGREEMENT in accordance with acceptable professional practices and ethical standards. No employer/employee relationships shall be deemed to be established and the CONSULTANT, its agents, subcontractors, and employees shall be independent contractors at all times.
- B. Professional and Technical Services. It shall be the responsibility of the ARCHITECT to work with the CRA and apprise the CRA of solutions to problems and the approach or technique to be used towards accomplishment of the CRA's objectives as set forth in WORK ASSIGNMENTS, which will be made a part of this AGREEMENT upon execution by both parties.
- C. The scope of services to be provided shall be covered in detail in WORK ASSIGNMENTS.
- D. The CRA has established a budget for each project awarded to ARCHITECT. The ARCHITECT shall be responsible for providing, at no additional cost to the CRA, new designs, drawings, specifications, reports and other applicable services so long as the CRA's cost for landscape architectural services for the project do not exceed five percent (5%) of the landscape architectural services budget for the project. If the budget for the landscape architectural services for the entire project is exceeded by more than five percent (5%), during and up to completion of the design phase of the project, the ARCHITECT and the CRA shall enter into a written amendment to the Agreement to provide for the additional costs. Nothing contained herein shall require the ARCHITECT to bear additional costs which are a result of a change in the scope of services directed by the CRA, delays in proceeding with the construction schedule, or other matters reasonably beyond ARCHITECT's control. The ARCHITECT shall utilize its best efforts to design the project to meet the approved budget.
- E. The ARCHITECT shall be responsible for the professional quality, technical accuracy, timely completion, compliance with regulations and rules, and the coordination with all appropriate agencies of all designs, drawings, specifications, reports and other services furnished by the ARCHITECT under this AGREEMENT. If the CRA determines that within industry standards there are any errors, omissions or other deficiencies not caused by sources outside of the ARCHITECT's control in the ARCHITECT's designs, drawings, specifications, reports and other such services within the scope of services for

said projects, the ARCHITECT shall, without additional compensation, correct or revise said errors or omissions.

F. Approval by the CRA of drawings, designs, specifications, reports and incidental professional services or materials furnished hereunder shall not in any way relieve the ARCHITECT of responsibility for the technical adequacy of its work. The CRA's review, approval or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights under this AGREEMENT or of any cause of action arising out of the performance of this AGREEMENT.

G. The ARCHITECT shall attend all meetings, as specified or as defined under Paragraph 1 above and/or each work assignment of the CRA Board or any other City Board, or other agency, where the project is discussed, unless the CRA's Executive Director or designee declares such attendance and participation is not necessary. In addition, the ARCHITECT shall attend all additional meetings as may be required to facilitate the project.

4. The method of payment for the services rendered by ARCHITECT shall be as follows:

A. The CRA agrees to pay the ARCHITECT for all services rendered based upon the established hourly rate including overhead and profit as shown in **Exhibit "A"**. The rates listed in **Exhibit "A"** will be effective during the initial three-year term of this Agreement. The rates will be revised annually thereafter and modified upon approval of the CRA. Additionally, the CRA shall pay the ARCHITECT such other direct out-of-pocket expenses as the ARCHITECT shall incur for photocopy charges, material production charges, long distance telephone and other similar charges.

B. For each WORK ASSIGNMENT, other than general consulting services, a budget cost ceiling for the professional services will be established by the parties. Compensation to the ARCHITECT shall not exceed the budget cost ceiling for the work assignment without prior authorization from the CRA by written amendment to the work assignment.

C. Payment shall be monthly in accordance with invoices for actual charges incurred during the preceding month.

5. The parties hereby agree to negotiate specific case-by-case addenda to this Agreement in order to provide the scope of specific services for individual projects through the WORK ASSIGNMENTS the ARCHITECT is directed to perform by the CRA. Such specific projects shall be other than of a general consulting nature. In the event of a specific project, the CRA reserves the right to request compensation for such specific projects to be negotiated on either a lump sum method, cost plus fixed fee method, or salary cost times multiplier method.

6. All drawings, materials, reports and other media developed by the ARCHITECT, pursuant to this Agreement, shall become sole and exclusive property of the CRA, and the ARCHITECT shall deliver same to the CRA, in a timely manner, upon written request by the CRA for same. In the event the CRA terminates this Agreement, ARCHITECT shall promptly deliver all drawings, materials, reports, and other media developed by the ARCHITECT to the CRA. All documents including drawings and specifications prepared or furnished by ARCHITECT (and ARCHITECT's independent professional associates, subcontractors and consultants) pursuant to this Agreement are instruments of service in respect of the Project and ARCHITECT shall retain an ownership and property interest therein whether or not the Project is completed. The CRA may make and retain copies for information and reference in connection with the use and occupancy of the Project by the CRA and others; however, such documents are not intended or represented to be suitable for reuse by the CRA or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by ARCHITECT, or by ARCHITECT's independent professional associates, subcontractor or consultants, shall be at CRA's sole risk and without liability to ARCHITECT. Any such verification or adaptation will entitle ARCHITECT to further compensation rates to be agreed upon by the CRA and ARCHITECT.

7. Without limiting any of the other obligations or liabilities of the ARCHITECT, the ARCHITECT shall, at his own expense, provide and maintain in force, until all of its services to be performed under this Agreement have been completed and accepted by the CRA (or for such duration as it otherwise specified herein), the following insurance coverage's:

A. Worker's Compensation Insurance to apply to all of the ARCHITECT's employees in compliance with the "Worker's Compensation Law" of the State of Florida and all applicable Federal Laws.

Employer's Liability with limits of \$100,000 per person, \$500,000 per occurrence and \$100,000 per each disease.

B. Comprehensive General Liability with minimum limits of one million dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements other than ISO Endorsement GL 21 06 (Engineers, Landscape Architects, Architects, or Surveyors Professional Liability exclusion), as Filed by the Insurance Services Office, shall be in effect for three (3) years following the expiration or termination of this Agreement, and must include:

1. Premises and/or Operations
2. Independent ARCHITECTs
3. Products and Completed Operations- ARCHITECTS shall

maintain in force until at least three years after completion of all services required under this Agreement, coverage for Products and Completed Operations, including Broad Form Property Damage.

4. Broad Form Property Damage
5. Contractual Coverage applicable to this specific AGREEMENT
6. Personal Injury Coverage with minimum limits of coverage equal to those required for Bodily Injury Liability.

C. Business Automobile Liability with minimum limits of One Million and 00/100 Dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:

1. Owned Vehicles
2. Hired and Non-Owned Vehicles
3. Employers' Non-Ownership

D. Professional Liability Insurance with minimum limits per occurrence applicable to CRA projects as follows:

	<u>Construction Cost Range</u>	<u>Limit</u>
1.	0 - 99,000	\$ 250,000
2.	100,000 - 299,000	500,000
3.	300,000 - 499,000	750,000
4.	500,000 – Above	1,000,000

Coverage shall be afforded on a form acceptable to the CRA. ARCHITECT shall maintain such professional liability insurance until at least three (3) years after a Certificate of Occupancy is issued. ARCHITECT shall insure that sub-consultants used for any portion of the project, maintain adequate levels of Professional Liability Insurance.

E. Prior to commencement of services, the ARCHITECT shall provide to the CRA Certificates of Insurance evidencing the insurance coverage specified in the foregoing Paragraphs 7A, 7B, 7C, and 7D. All policies covered within subparagraphs 7A, 7B, 7C, and 7D, shall be endorsed to provide the CRA with thirty (30) days' notice of cancellation and/or restriction. The CRA shall be named as an additional insured as to ARCHITECT's liability on policies referenced in this Section. The required Certificates of Insurance shall not only name the types of policies provided, but also shall refer specifically to this Agreement and section and to the above paragraphs in accordance with which insurance is being furnished, and shall state that such

insurance is as required by such paragraphs of this Agreement. The ARCHITECT shall also make available to the CRA a certified copy of the professional liability insurance policy required by paragraph 7D above for the CRA's review. Upon request, the ARCHITECT shall provide copies of all other insurance policies.

F. If the initial insurance policies required this Agreement expire prior to the completion of the services, renewal Certificates of Insurance of policies shall be furnished thirty (30) days prior to the date of their expiration. For Notice of Cancellation and/or Restriction; the policies must be endorsed to provide the CRA with thirty (30) days' notice of cancellation and/or restriction.

G. The ARCHITECT's insurance shall apply on a primary basis.

H. A waiver of Subrogation shall be provided on all policies of insurance.

8. **INDEMNIFICATION:** The ARCHITECT shall indemnify and hold harmless the CRA, its officers, directors, and employees, from or on account of all liabilities, damages, losses and costs at trial and appellate levels, sustained by any person or persons, to the extent actually caused by the negligence, recklessness, or intentional wrongful misconduct of the ARCHITECT and any persons employed or utilized by the ARCHITECT in the performance of the services pursuant to this Agreement, and any associated Work Authorization (excluding the actual or alleged negligence, or actions based upon the willful, wanton or intentional misconduct of the CRA or its officers, directors, agents or employees, as well as other exclusions provided by F.S. 725.06(1)(c). The ARCHITECT agrees that negligent, reckless or intentional wrongful misconduct also includes but is not limited to the violation of any Federal, State, County or City laws, by-laws, ordinances or regulations by the ARCHITECT, his subcontractors, agents, servants or employees. ARCHITECT further agrees to indemnify and save harmless the CRA from all such claims and fees, and from any and all suits and actions of every name and description that may be brought against the CRA on account of any claims, fees, royalties, or costs for any invention or patent, and from any and all suits and actions that may be brought against the CRA for the infringement of any and all patents or patent rights claimed by any person, firm, or corporation.

9. **Public Entity Crimes:** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as an ARCHITECT, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO (Currently \$25,000) for a period of 36 months from the date of being placed on the convicted vendor list.

10. **CERTIFICATION AND SCRUTINIZED COMPANY REQUIREMENTS:** The CRA shall have the option to terminate this agreement/contract if ARCHITECT:

- A. Is found to have submitted a false certification as provided under section 287.135 (5) Florida Statutes;
- B. Has been placed on the Scrutinized Companies that Boycott Israel List;
- C. 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
- D. Has been engaged in business operations in Cuba or Syria.

11. **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.

12. **PROHIBITION OF CONTINGENT FEES:** The ARCHITECT warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the ARCHITECT to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the ARCHITECT any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement. For the breach or violation of this provision, the CRA shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration pursuant to section 287.055(6), Florida Statutes.

13. **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:

Jeff Costello, 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 No. (561) 276-9400
Facsimile No. (954) 771-4923

For ARCHITECT:

Tammy Cook-Weedon
Calvin Giordano & Associates, Inc.
1800 Eller Drive, Suite 600
Fort Lauderdale, FL
Telephone No. (954) 921-7781
Facsimile No. (954) 921-8807

14. **DEFAULT:** In the event the ARCHITECT fails to comply with the provisions of this Agreement, the CRA may declare the ARCHITECT 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 ARCHITECT 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 ARCHITECT in the event of default, shall be determined by deducting any additional costs, charges and/or damages incurred by the CRA due to the ARCHITECT'S default.

15. **WARRANTY:** ARCHITECT warrants that its services are to be performed within the limits prescribed by the CRA with the usual thoroughness and in conformance with all applicable professional landscape architectural standards.

16. **MISCELLANEOUS**

- A. **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.
- B. **Law Governing:** This Agreement shall be governed by and construed in accordance with the Laws of the State of Florida.
- C. **Venue for litigation concerning this Agreement shall be in Palm Beach County, Florida.**
- D. **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.

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

- A. Keep and maintain public records required by the CRA to perform the service.
- 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 contract term and following completion of the contract if the ARCHITECT does not transfer the records to the CRA.
- D. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the ARCHITECT 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 ARCHITECT 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 ARCHITECT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ARCHITECT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT

**RENEE JADUSINGH, ESQ.
561-276-8640
JADUSINGHR@MYDELRAYBEACH.COM
20 NORTH SWINTON AVENUE
DELRAY BEACH, FLORIDA 33444**

18. **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.

IN WITNESS WHEREOF, the DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY Board of Commissioners has made and executed this Agreement on behalf of the CRA and ARCHITECT has hereunto set its hand the day and year written above.

DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY


By: 

Shelly Petrolia, Chair

ATTEST:


Jeff Costello, Secretary

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


General Counsel

General Counsel

CONSULTANT:

Calvin Giordano & Assoc. Inc.

By: [Signature]
(Signature)

Dennis Giordano President
(Print Name and Title)

Attest:

[Signature]
Secretary

(CORPORATE SEAL)

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

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared Dennis Giordano as President of Calvin Giordano & Assoc. named in the foregoing agreement and that he/she acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him/her by said Corporation and that the Corporate seal affixed thereto is the true corporate seal of said Corporation.

Witness my hand and official seal in the County and State last aforesaid this 27 day of September, 2018.

[Signature]
NOTARY PUBLIC
SARA R. BLUMKIN
Printed Name

My Commission Expires:



EXHIBIT "A"
HOURLY SERVICES

October 2018

Calvin, Giordano & Associates, Inc.

<u>Staff Title</u>	<u>Hourly Rate</u>
Associate, Landscape	\$ 160.23
Sr. Landscape Architect	\$ 141.83
Environmental Administrator	\$ 123.93
Landscape Architect	\$ 109.70
Environmental Specialist	\$ 73.07
Landscape CADD Technician	\$ 69.93

Copies

Black & White (24" x 36")	<u>\$1.50</u>
Color (24" x 36")	<u>\$6.00</u>
Black & White (8½" x 11" & 11" x 17")	\$ no charge (*)
Color (8 ½" x 11" & 11" x 17")	\$ no charge (*)

Note: (*) Incidental in house 8½" and 11" copies will not be charged. Large orders will be sent to outside copy center and cost charged as a direct reimbursable expense to Client.

No Mileage Will be Charged on Any Project

EXHIBIT "B"
SAMPLE
CONSULTING WORK ASSIGNMENT

WORK ASSIGNMENT
BETWEEN

THE DELRAY BEACH
COMMUNITY REDEVELOPMENT AGENCY

AND

CONSULTANT NAME

This Consulting Work Assignment is entered into this ____ day of ____, **201__**, by and between the **DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY**, hereinafter referred to as "CRA" and **CONSULTANT NAME** hereinafter referred to as "CONSULTANT".

W I T N E S S E T H:

WHEREAS, the CRA and the CONSULTANT previously entered into an Agreement for Professional Contracting Services dated ____, **201__**, the "Original Agreement"); and

WHEREAS, the CRA and the CONSULTANT are authorized to enter into Work Assignments in order to provide for additional services to be provided by the CONSULTANT for the CRA, pursuant to the Original Agreement; and

WHEREAS, the CRA and the CONSULTANT desire to enter into this Work Assignment in order to provide for the CONSULTANT to provide additional services pursuant to the Original Agreement, except a modified herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the CRA and the CONSULTANT agree as follows:

1. The "WHEREAS" clauses recited above are hereby incorporated herein by reference.

2. The CRA authorizes the CONSULTANT to perform additional services as provided in this Work Assignment for the following CRA Project:

NAME OF PROJECT

3. The Scope of Services for the Project, as provided in the Original Agreement, is hereby amended in order to authorize the CONSULTANT to provide the Scope of Services as described on **Exhibit "A"**, to this Work Assignment, which is attached hereto and incorporated herein by reference.

4. The Budget for the Project as stated in the Original Agreement is hereby amended to reflect the adjustments indicated on **Exhibit "A"**, to this Work Assignment, which is attached hereto and incorporated herein by reference.

5. The Completion Date for the Project as stated in the Original Agreement is hereby amended to provide for the CONSULTANT to complete the Scope of Services described in **Exhibit "A"** to this Work Assignment, which is attached hereto and incorporated herein by reference, no later than ____ days (exclusive of construction) after the CRA executes this Work Assignment, with extensions as approved by the CRA.

6. This Work Assignment is approved contingent upon the CRA's acceptance of and satisfaction with the completion of the services rendered in the previous phase or as encompassed in the Original Agreement, as may have been amended by any prior Work Assignments entered into between the CRA and the CONTRACTOR. If the CRA, in its sole discretion, is unsatisfied with the services provided in the previous phase, or prior Work Assignment, the CRA may terminate the Original Agreement without incurring any further liability.

7. The CONSULTANT may not commence work on any Work Assignment, including this Work Assignment, as approved by the CRA, without a further notice to proceed issued in writing by the CRA Executive Director, or her authorized representative.

8. The Original Agreement, as may have been modified by prior Work Assignments, and except as modified herein, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Work Assignment as of the day and year indicated above.

ATTEST:

**DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY**

By: _____
Jeff Costello, Executive Director

BY: _____
Shelly Petrolia, Chair

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

General Counsel

CONSULTANT:

By: _____
(Signature)

(Print Name and Title)

Attest:

Secretary

(CORPORATE SEAL)

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

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared _____ as _____ of _____ named in the foregoing agreement and that he/she acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him/her by said _____ and that the Corporate seal affixed thereto is the true corporate seal of said Corporation.

Witness my hand and official seal in the County and State last aforesaid this _____ day of _____, 201__.

NOTARY PUBLIC

Printed Name

My Commission Expires:

EXHIBIT "A"

"NAME OF PROJECT"

I. PROJECT DESCRIPTION

- 1.1 The project is located in Delray Beach, Florida
- 1.2 Additional Professionals working on the project under contract to the CONSULTANT include:

II. SCOPE OF SERVICES

PART I –Design Development

PART II – Construction Documents

PART III – Permitting

PART IV - Bidding Assistance and Construction Services

PART V – Additional Services

III. BUDGET

IV. COMPLETION DATE

**AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES BETWEEN THE
DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY AND
CRAVEN, THOMPSON & ASSOCIATES, INC.**

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WITNESSETH:

WHEREAS, the CRA is desirous of retaining a firm to provide professional landscape architectural services on an as needed basis by the CRA,

WHEREAS, the parties are desirous of providing within the terms of this Agreement the flexibility for additional specific projects to be undertaken by the ARCHITECT at the direction of the CRA.

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained the parties hereby agree as follows:

1. The Scope of Work is for General Consulting Service and other landscape architectural services which address landscape architectural projects as they present themselves during the agreement period.

The CRA anticipates that they may be in need of landscape architectural services related to community redevelopment and implementation of the Community Redevelopment Plan during the term of this Agreement. The professional general consulting landscape architectural services provided throughout the term of this Agreement are needed in support of the community redevelopment effort, including, but not limited to providing planning, design, construction documents, bidding, permitting, and construction administration services for various improvements on a continuing contract basis for projects in the Downtown Delray Beach Master Plan, West Atlantic Avenue Redevelopment Plan, the City of Delray Beach Community Redevelopment Plan, and the Southwest Area Neighborhood Redevelopment Plan for which construction costs generally do not exceed \$2,000,000.00; and study activity when the fee for such professional service does not exceed \$200,000, pursuant to Florida Statute Section 287.055 (Consultants' Competitive Negotiation Act).

At this point and time, the level of work effort on any and all of the reference projects has not been determined. No assurance is given that any of the projects will materialize during the term of this Agreement and that the CRA specifically reserves the right to award any or all of said projects to its other general consultant or to other landscape architectural firms pursuant to the Florida Statutes Consultants

Competitive Negotiations Act and applicable procurement resolutions of the CRA.

The following definitions and general conditions shall apply to this AGREEMENT and subsequent addendum:

- A. THE SCOPE OF WORK may be implemented in phases as set forth by this Agreement and by WORK ASSIGNMENTS, which are attached hereto and made a part hereof, and as also may be added as approved by the CRA from time to time.
- B. A WORK ASSIGNMENT is a form to be used to authorize work, projects, and services. The form shall be executed by the CRA's and ARCHITECT's representatives. A CRA project tracking name or number shall be identified on the form. A sample form of the service authorization is attached as **Exhibit "B"** to this AGREEMENT. The projects, works, and services to be performed by the ARCHITECT, and time for completion of the particular phase of the work by ARCHITECT, shall be authorized by a WORK ASSIGNMENT. The WORK ASSIGNMENT shall include the scope of work to be performed; the budget cost, complete with an itemization of man-hours, wage rates, reimbursable expenses, and other related costs; schedule for completion and name of project manager. The ARCHITECT agrees not to bill the CRA for meetings required to negotiate or finalize the WORK ASSIGNMENT. The WORK ASSIGNMENT shall be approved by the CRA Board, and signed by the CRA's authorized representative and the ARCHITECT's authorized representative.
- C. PHASES: A phased approach may be utilized. The CRA and the ARCHITECT shall have the right to negotiate the terms of each phase as contained within each WORK ASSIGNMENT, and to reject any work assignment, if the parties cannot agree to the terms of the service authorization. The ARCHITECT agrees not to bill the CRA for meetings required to negotiate or finalize the scope of work within each phase. In the event the parties cannot agree, the CRA may select the next proposer or seek additional proposals in order to complete the subsequent phase(s) of the project. This phased approach shall not waive the CRA's right to terminate the ARCHITECT's contract during any phase of the project.

2. The term of this Agreement shall be for a period of three (3) years commencing October 1st, 2018. The CRA reserves the right to renew this Agreement for two (2) additional one (1) year terms, by providing the ARCHITECT with written notice of CRA's election to do so, prior to the expiration of the then current term. Notwithstanding the foregoing, either party may cancel this Agreement, at any time, upon thirty (30) days advance written notice.

3. The ARCHITECT shall be deemed to be the "ARCHITECT of Record" for the CRA for specific projects assigned to the ARCHITECT during the term of this Agreement and the Executive Director or designee of the CRA is designated as the CRA's liaison with

the ARCHITECT. The ARCHITECT designates _____, as its liaison with the CRA. Any changes to the above designations shall be provided in writing to the CRA and shall be approved by the CRA's Executive Director. The general duties of the ARCHITECT are as follows:

- A. The relationship of the ARCHITECT to the CRA will be that of a professional CONSULTANT, and the CONSULTANT will provide the professional and technical services required under this AGREEMENT in accordance with acceptable professional practices and ethical standards. No employer/employee relationships shall be deemed to be established and the CONSULTANT, its agents, subcontractors, and employees shall be independent contractors at all times.
- B. Professional and Technical Services. It shall be the responsibility of the ARCHITECT to work with the CRA and apprise the CRA of solutions to problems and the approach or technique to be used towards accomplishment of the CRA's objectives as set forth in WORK ASSIGNMENTS, which will be made a part of this AGREEMENT upon execution by both parties.
- C. The scope of services to be provided shall be covered in detail in WORK ASSIGNMENTS.
- D. The CRA has established a budget for each project awarded to ARCHITECT. The ARCHITECT shall be responsible for providing, at no additional cost to the CRA, new designs, drawings, specifications, reports and other applicable services so long as the CRA's cost for landscape architectural services for the project do not exceed five percent (5%) of the landscape architectural services budget for the project. If the budget for the landscape architectural services for the entire project is exceeded by more than five percent (5%), during and up to completion of the design phase of the project, the ARCHITECT and the CRA shall enter into a written amendment to the Agreement to provide for the additional costs. Nothing contained herein shall require the ARCHITECT to bear additional costs which are a result of a change in the scope of services directed by the CRA, delays in proceeding with the construction schedule, or other matters reasonably beyond ARCHITECT's control. The ARCHITECT shall utilize its best efforts to design the project to meet the approved budget.
- E. The ARCHITECT shall be responsible for the professional quality, technical accuracy, timely completion, compliance with regulations and rules, and the coordination with all appropriate agencies of all designs, drawings, specifications, reports and other services furnished by the ARCHITECT under this AGREEMENT. If the CRA determines that within industry standards there are any errors, omissions or other deficiencies not caused by sources outside of the ARCHITECT's control in the ARCHITECT's designs, drawings, specifications, reports and other such services within the scope of services for said projects, the ARCHITECT shall, without additional compensation, correct

or revise said errors or omissions.

- F. Approval by the CRA of drawings, designs, specifications, reports and incidental professional services or materials furnished hereunder shall not in any way relieve the ARCHITECT of responsibility for the technical adequacy of its work. The CRA's review, approval or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights under this AGREEMENT or of any cause of action arising out of the performance of this AGREEMENT.
 - G. The ARCHITECT shall attend all meetings, as specified or as defined under Paragraph 1 above and/or each work assignment of the CRA Board or any other City Board, or other agency, where the project is discussed, unless the CRA's Executive Director or designee declares such attendance and participation is not necessary. In addition, the ARCHITECT shall attend all additional meetings as may be required to facilitate the project.
4. The method of payment for the services rendered by ARCHITECT shall be as follows:
- A. The CRA agrees to pay the ARCHITECT for all services rendered based upon the established hourly rate including overhead and profit as shown in **Exhibit "A"**. The rates listed in **Exhibit "A"** will be effective during the initial three-year term of this Agreement. The rates will be revised annually thereafter and modified upon approval of the CRA. Additionally, the CRA shall pay the ARCHITECT such other direct out-of-pocket expenses as the ARCHITECT shall incur for photocopy charges, material production charges, long distance telephone and other similar charges.
 - B. For each WORK ASSIGNMENT, other than general consulting services, a budget cost ceiling for the professional services will be established by the parties. Compensation to the ARCHITECT shall not exceed the budget cost ceiling for the work assignment without prior authorization from the CRA by written amendment to the work assignment.
 - C. Payment shall be monthly in accordance with invoices for actual charges incurred during the preceding month.
5. The parties hereby agree to negotiate specific case-by-case addenda to this Agreement in order to provide the scope of specific services for individual projects through the WORK ASSIGNMENTS the ARCHITECT is directed to perform by the CRA. Such specific projects shall be other than of a general consulting nature. In the event of a specific project, the CRA reserves the right to request compensation for such specific projects to be negotiated on either a lump sum method, cost plus fixed fee method, or salary cost times multiplier method.

6. All drawings, materials, reports and other media developed by the ARCHITECT, pursuant to this Agreement, shall become sole and exclusive property of the CRA, and the ARCHITECT shall deliver same to the CRA, in a timely manner, upon written request by the CRA for same. In the event the CRA terminates this Agreement, ARCHITECT shall promptly deliver all drawings, materials, reports, and other media developed by the ARCHITECT to the CRA. All documents including drawings and specifications prepared or furnished by ARCHITECT (and ARCHITECT's independent professional associates, subcontractors and consultants) pursuant to this Agreement are instruments of service in respect of the Project and ARCHITECT shall retain an ownership and property interest therein whether or not the Project is completed. The CRA may make and retain copies for information and reference in connection with the use and occupancy of the Project by the CRA and others; however, such documents are not intended or represented to be suitable for reuse by the CRA or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by ARCHITECT, or by ARCHITECT's independent professional associates, subcontractor or consultants, shall be at CRA's sole risk and without liability to ARCHITECT. Any such verification or adaptation will entitle ARCHITECT to further compensation rates to be agreed upon by the CRA and ARCHITECT.

7. Without limiting any of the other obligations or liabilities of the ARCHITECT, the ARCHITECT shall, at his own expense, provide and maintain in force, until all of its services to be performed under this Agreement have been completed and accepted by the CRA (or for such duration as it otherwise specified herein), the following insurance coverage's:

A. Worker's Compensation Insurance to apply to all of the ARCHITECT's employees in compliance with the "Worker's Compensation Law" of the State of Florida and all applicable Federal Laws.

Employer's Liability with limits of \$100,000 per person, \$500,000 per occurrence and \$100,000 per each disease.

B. Comprehensive General Liability with minimum limits of one million dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements other than ISO Endorsement GL 21 06 (Engineers, Landscape Architects, Architects, or Surveyors Professional Liability exclusion), as Filed by the Insurance Services Office, shall be in effect for three (3) years following the expiration or termination of this Agreement, and must include:

1. Premises and/or Operations
2. Independent ARCHITECTs
3. Products and Completed Operations- ARCHITECTS shall maintain in force until at least three years after completion of all

services required under this Agreement, coverage for Products and Completed Operations, including Broad Form Property Damage.

4. Broad Form Property Damage
5. Contractual Coverage applicable to this specific AGREEMENT
6. Personal Injury Coverage with minimum limits of coverage equal to those required for Bodily Injury Liability.

C. Business Automobile Liability with minimum limits of One Million and 00/100 Dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:

1. Owned Vehicles
2. Hired and Non-Owned Vehicles
3. Employers' Non-Ownership

D. Professional Liability Insurance with minimum limits per occurrence applicable to CRA projects as follows:

	<u>Construction Cost Range</u>	<u>Limit</u>
1.	0 - 99,000	\$ 250,000
2.	100,000 - 299,000	500,000
3.	300,000 - 499,000	750,000
4.	500,000 - Above	1,000,000

Coverage shall be afforded on a form acceptable to the CRA. ARCHITECT shall maintain such professional liability insurance until at least three (3) years after a Certificate of Occupancy is issued. ARCHITECT shall insure that sub-consultants used for any portion of the project, maintain adequate levels of Professional Liability Insurance.

E. Prior to commencement of services, the ARCHITECT shall provide to the CRA Certificates of Insurance evidencing the insurance coverage specified in the foregoing Paragraphs 7A, 7B, 7C, and 7D. All policies covered within subparagraphs 7A, 7B, 7C, and 7D, shall be endorsed to provide the CRA with thirty (30) days' notice of cancellation and/or restriction. The CRA shall be named as an additional insured as to ARCHITECT's liability on policies referenced in this Section. The required Certificates of Insurance shall not only name the types of policies provided, but also shall refer specifically to this Agreement and section and to the above paragraphs in accordance with which insurance is being furnished, and shall state that such insurance is as required by such paragraphs of this Agreement. The

ARCHITECT shall also make available to the CRA a certified copy of the professional liability insurance policy required by paragraph 7D above for the CRA's review. Upon request, the ARCHITECT shall provide copies of all other insurance policies.

F. If the initial insurance policies required this Agreement expire prior to the completion of the services, renewal Certificates of Insurance of policies shall be furnished thirty (30) days prior to the date of their expiration. For Notice of Cancellation and/or Restriction; the policies must be endorsed to provide the CRA with thirty (30) days' notice of cancellation and/or restriction.

G. The ARCHITECT's insurance shall apply on a primary basis.

H. A waiver of Subrogation shall be provided on all policies of insurance.

8. **INDEMNIFICATION:** The ARCHITECT shall indemnify and hold harmless the CRA, its officers, directors, and employees, from or on account of all liabilities, damages, losses and costs at trial and appellate levels, sustained by any person or persons, to the extent actually caused by the negligence, recklessness, or intentional wrongful misconduct of the ARCHITECT and any persons employed or utilized by the ARCHITECT in the performance of the services pursuant to this Agreement, and any associated Work Authorization (excluding the actual or alleged negligence, or actions based upon the willful, wanton or intentional misconduct of the CRA or its officers, directors, agents or employees, as well as other exclusions provided by F.S. 725.06(1)(c)). The ARCHITECT agrees that negligent, reckless or intentional wrongful misconduct also includes but is not limited to the violation of any Federal, State, County or City laws, by-laws, ordinances or regulations by the ARCHITECT, his subcontractors, agents, servants or employees. ARCHITECT further agrees to indemnify and save harmless the CRA from all such claims and fees, and from any and all suits and actions of every name and description that may be brought against the CRA on account of any claims, fees, royalties, or costs for any invention or patent, and from any and all suits and actions that may be brought against the CRA for the infringement of any and all patents or patent rights claimed by any person, firm, or corporation.

9. **PUBLIC ENTITY CRIMES:** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as an ARCHITECT, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO (Currently \$25,000) for a period of 36 months from the date of being placed on the convicted vendor list.

10. **CERTIFICATION AND SCRUTINIZED COMPANY REQUIREMENTS:** The CRA shall have the option to terminate this agreement/contract if ARCHITECT:

A. Is found to have submitted a false certification as provided under

section 287.135 (5) Florida Statutes;

- B. Has been placed on the Scrutinized Companies that Boycott Israel List;
- C. 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
- D. Has been engaged in business operations in Cuba or Syria.

11. **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.

12. **PROHIBITION OF CONTINGENT FEES:** The ARCHITECT warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the ARCHITECT to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the ARCHITECT any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement. For the breach or violation of this provision, the CRA shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration pursuant to section 287.055(6), Florida Statutes.

13. **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:

Jeff Costello, 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 No. (561) 276-9400
Facsimile No. (954) 771-4923

For ARCHITECT: Douglas Schultz
Craven, Thompson & Associates, Inc.
3563 NW 53rd Street
Fort Lauderdale, FL 33309
Telephone No. (954) 739-6400
Facsimile No.

14. **DEFAULT.** In the event the ARCHITECT fails to comply with the provisions of this Agreement, the CRA may declare the ARCHITECT 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 ARCHITECT 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 ARCHITECT in the event of default, shall be determined by deducting any additional costs, charges and/or damages incurred by the CRA due to the ARCHITECT'S default.

15. **WARRANTY.** ARCHITECT warrants that its services are to be performed within the limits prescribed by the CRA with the usual thoroughness and in conformance with all applicable professional landscape architectural standards.

16. **MISCELLANEOUS**

- A. **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.
- B. **Law Governing:** This Agreement shall be governed by and construed in accordance with the Laws of the State of Florida.
- C. **Venue for litigation concerning this Agreement shall be in Palm Beach County, Florida.**
- D. **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.

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

- A. Keep and maintain public records required by the CRA to perform the service.
- 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 contract term and following completion of the contract if the ARCHITECT does not transfer the records to the CRA.
- D. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the ARCHITECT 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 ARCHITECT 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 ARCHITECT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ARCHITECT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT

**RENEE JADUSINGH, ESQ.
561-276-8640
JADUSINGHR@MYDELRAYBEACH.COM
20 NORTH SWINTON AVENUE
DELRAY BEACH, FLORIDA 33444**

18. **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.

IN WITNESS WHEREOF, the DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY Board of Commissioners has made and executed this Agreement on behalf of the CRA and ARCHITECT has hereunto set its hand the day and year written above.

DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY

By: _____

Shelly Petrolia, Chair

ATTEST:

Jeff Costello, Secretary

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

General Counsel

ATTEST:

Secretary Joseph D. Handley

ARCHITECT:

Craven Thompson & Associates, Inc.

BY: Thomas M. McDonald

Print Name: Thomas M. McDonald

Title: President

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

The foregoing instrument was acknowledged before me this 20th day of September, 2018, by Thomas M. McDonald, as President (name of officer or agent, title of officer or agent), of Craven Thompson & Associates (name of corporation acknowledging), a Florida (state or place of incorporation) corporation, on behalf of the corporation. He/She is personally known to me or has produced _____ (type of identification) as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 20th day of September, 2018.

Patricia A. Gilbert
NOTARY PUBLIC PATRICIA A. GILBERT

My Commission Expires: 3/23/2022



EXHIBIT "A"
HOURLY SERVICES

October 2018

Craven, Thompson & Associates, Inc.

<u>Staff Title</u>	<u>Hourly Rate</u>
Principal Landscape Architect	\$ 165.00
Sr. Supervising Landscape Architect	\$ 150.00
Sr. Landscape Architect	\$ 135.00
Landscape Architect	\$ 125.00
Landscape Designer	\$ 115.00
Clerical	\$ 70.00

Copies

Black & White (24" x 36")	<u>\$1.25</u>
Color (24" x 36")	<u>\$1.75</u>
Black & White (8½" x 11" & 11" x 17")	\$ no charge (*)
Color (8 ½" x 11" & 11" x 17")	\$ no charge (*)

Note: (*) Incidental in house 8½" and 11" copies will not be charged. Large orders will be sent to outside copy center and cost charged as a direct reimbursable expense to Client.

No Mileage Will be Charged on Any Project

EXHIBIT "B"
SAMPLE
CONSULTING WORK ASSIGNMENT

WORK ASSIGNMENT
BETWEEN

THE DELRAY BEACH
COMMUNITY REDEVELOPMENT AGENCY

AND

CONSULTANT NAME

This Consulting Work Assignment is entered into this ____ day of ____, **201_**, by and between the **DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY**, hereinafter referred to as "CRA" and **CONSULTANT NAME** hereinafter referred to as "CONSULTANT".

W I T N E S S E T H:

WHEREAS, the CRA and the CONSULTANT previously entered into an Agreement for Professional Contracting Services dated ____, **201_**, the "Original Agreement"); and

WHEREAS, the CRA and the CONSULTANT are authorized to enter into Work Assignments in order to provide for additional services to be provided by the CONSULTANT for the CRA, pursuant to the Original Agreement; and

WHEREAS, the CRA and the CONSULTANT desire to enter into this Work Assignment in order to provide for the CONSULTANT to provide additional services pursuant to the Original Agreement, except a modified herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the CRA and the CONSULTANT agree as follows:

1. The "WHEREAS" clauses recited above are hereby incorporated herein by reference.

2. The CRA authorizes the CONSULTANT to perform additional services as provided in this Work Assignment for the following CRA Project:

NAME OF PROJECT

3. The Scope of Services for the Project, as provided in the Original Agreement, is hereby amended in order to authorize the CONSULTANT to provide the

Scope of Services as described on **Exhibit "A"**, to this Work Assignment, which is attached hereto and incorporated herein by reference.

4. The Budget for the Project as stated in the Original Agreement is hereby amended to reflect the adjustments indicated on **Exhibit "A"**, to this Work Assignment, which is attached hereto and incorporated herein by reference.

5. The Completion Date for the Project as stated in the Original Agreement is hereby amended to provide for the CONSULTANT to complete the Scope of Services described in **Exhibit "A"** to this Work Assignment, which is attached hereto and incorporated herein by reference, no later than ____ days (exclusive of construction) after the CRA executes this Work Assignment, with extensions as approved by the CRA.

6. This Work Assignment is approved contingent upon the CRA's acceptance of and satisfaction with the completion of the services rendered in the previous phase or as encompassed in the Original Agreement, as may have been amended by any prior Work Assignments entered into between the CRA and the CONTRACTOR. If the CRA, in its sole discretion, is unsatisfied with the services provided in the previous phase, or prior Work Assignment, the CRA may terminate the Original Agreement without incurring any further liability.

7. The CONSULTANT may not commence work on any Work Assignment, including this Work Assignment, as approved by the CRA, without a further notice to proceed issued in writing by the CRA Executive Director, or her authorized representative.

8. The Original Agreement, as may have been modified by prior Work Assignments, and except as modified herein, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Work Assignment as of the day and year indicated above.

ATTEST:

**DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY**

By: _____
Jeff Costello, Executive Director

BY: _____
Shelly Petrolia, Chair

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

General Counsel

CONSULTANT:

By: _____
(Signature)

(Print Name and Title)

Attest:

Secretary

(CORPORATE SEAL)

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

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared _____ as _____ of _____ named in the foregoing agreement and that he/she acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him/her by said _____ and that the Corporate seal affixed thereto is the true corporate seal of said Corporation.

Witness my hand and official seal in the County and State last aforesaid this _____ day of _____, 201__.

NOTARY PUBLIC

Printed Name

My Commission Expires:

EXHIBIT "A"

"NAME OF PROJECT"

I. PROJECT DESCRIPTION

- 1.1 The project is located in Delray Beach, Florida
- 1.2 Additional Professionals working on the project under contract to the CONSULTANT include:

II. SCOPE OF SERVICES

PART I –Design Development

PART II – Construction Documents

PART III – Permitting

PART IV - Bidding Assistance and Construction Services

PART V – Additional Services

III. BUDGET

IV. COMPLETION DATE

**AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES BETWEEN THE
DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY AND
EDSA, INC.**

THIS AGREEMENT ("AGREEMENT ") is made and entered into as of the 1 day of October, 2018, by and between the **DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY**, an entity created pursuant to Chapter 163, Part III, Florida Statutes, (hereinafter referred to as the "CRA"), and **EDSA, INC.**, a Florida corporation (hereinafter referred to as the "ARCHITECT").

W I T N E S S E T H :

WHEREAS, the CRA is desirous of retaining a firm to provide professional landscape architectural services on an as needed basis by the CRA,

WHEREAS, the parties are desirous of providing within the terms of this Agreement the flexibility for additional specific projects to be undertaken by the ARCHITECT at the direction of the CRA.

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained the parties hereby agree as follows:

1. The Scope of Work is for General Consulting Service and other landscape architectural services which address landscape architectural projects as they present themselves during the agreement period.

The CRA anticipates that they may be in need of landscape architectural services related to community redevelopment and implementation of the Community Redevelopment Plan during the term of this Agreement. The professional general consulting landscape architectural services provided throughout the term of this Agreement are needed in support of the community redevelopment effort, including, but not limited to providing planning, design, construction documents, bidding, permitting, and construction administration services for various improvements on a continuing contract basis for projects in the Downtown Delray Beach Master Plan, West Atlantic Avenue Redevelopment Plan, the City of Delray Beach Community Redevelopment Plan, and the Southwest Area Neighborhood Redevelopment Plan for which construction costs generally do not exceed \$2,000,000.00; and study activity when the fee for such professional service does not exceed \$200,000, pursuant to Florida Statute Section 287.055 (Consultants' Competitive Negotiation Act).

At this point and time, the level of work effort on any and all of the reference projects has not been determined. No assurance is given that any of the projects will materialize during the term of this Agreement and that the CRA specifically reserves the right to award any or all of said projects to its other general consultant or to other landscape architectural firms pursuant to the Florida Statutes Consultants

Competitive Negotiations Act and applicable procurement resolutions of the CRA.

The following definitions and general conditions shall apply to this AGREEMENT and subsequent addendum:

- A. THE SCOPE OF WORK may be implemented in phases as set forth by this Agreement and by WORK ASSIGNMENTS, which are attached hereto and made a part hereof, and as also may be added as approved by the CRA from time to time.
- B. A WORK ASSIGNMENT is a form to be used to authorize work, projects, and services. The form shall be executed by the CRA's and ARCHITECT's representatives. A CRA project tracking name or number shall be identified on the form. A sample form of the service authorization is attached as **Exhibit "B"** to this AGREEMENT. The projects, works, and services to be performed by the ARCHITECT, and time for completion of the particular phase of the work by ARCHITECT, shall be authorized by a WORK ASSIGNMENT. The WORK ASSIGNMENT shall include the scope of work to be performed; the budget cost, complete with an itemization of man-hours, wage rates, reimbursable expenses, and other related costs; schedule for completion and name of project manager. The ARCHITECT agrees not to bill the CRA for meetings required to negotiate or finalize the WORK ASSIGNMENT. The WORK ASSIGNMENT shall be approved by the CRA Board, and signed by the CRA's authorized representative and the ARCHITECT's authorized representative.
- C. PHASES: A phased approach may be utilized. The CRA and the ARCHITECT shall have the right to negotiate the terms of each phase as contained within each WORK ASSIGNMENT, and to reject any work assignment, if the parties cannot agree to the terms of the service authorization. The ARCHITECT agrees not to bill the CRA for meetings required to negotiate or finalize the scope of work within each phase. In the event the parties cannot agree, the CRA may select the next proposer or seek additional proposals in order to complete the subsequent phase(s) of the project. This phased approach shall not waive the CRA's right to terminate the ARCHITECT's contract during any phase of the project.

2. The term of this Agreement shall be for a period of three (3) years commencing October 1st, 2018. The CRA reserves the right to renew this Agreement for two (2) additional one (1) year terms, by providing the ARCHITECT with written notice of CRA's election to do so, prior to the expiration of the then current term. Notwithstanding the foregoing, either party may cancel this Agreement, at any time, upon thirty (30) days advance written notice.

3. The ARCHITECT shall be deemed to be the "ARCHITECT of Record" for the CRA for specific projects assigned to the ARCHITECT during the term of this Agreement

and the Executive Director or designee of the CRA is designated as the CRA's liaison with the ARCHITECT. The ARCHITECT designates Alex Fenech, as its liaison with the CRA. Any changes to the above designations shall be provided in writing to the CRA and shall be approved by the CRA's Executive Director. The general duties of the ARCHITECT are as follows:

- A. The relationship of the ARCHITECT to the CRA will be that of a professional CONSULTANT, and the CONSULTANT will provide the professional and technical services required under this AGREEMENT in accordance with acceptable professional practices and ethical standards. No employer/employee relationships shall be deemed to be established and the CONSULTANT, its agents, subcontractors, and employees shall be independent contractors at all times.
- B. Professional and Technical Services. It shall be the responsibility of the ARCHITECT to work with the CRA and apprise the CRA of solutions to problems and the approach or technique to be used towards accomplishment of the CRA's objectives as set forth in WORK ASSIGNMENTS, which will be made a part of this AGREEMENT upon execution by both parties.
- C. The scope of services to be provided shall be covered in detail in WORK ASSIGNMENTS.
- D. The CRA has established a budget for each project awarded to ARCHITECT. The ARCHITECT shall be responsible for providing, at no additional cost to the CRA, new designs, drawings, specifications, reports and other applicable services so long as the CRA's cost for landscape architectural services for the project do not exceed five percent (5%) of the landscape architectural services budget for the project. If the budget for the landscape architectural services for the entire project is exceeded by more than five percent (5%), during and up to completion of the design phase of the project, the ARCHITECT and the CRA shall enter into a written amendment to the Agreement to provide for the additional costs. Nothing contained herein shall require the ARCHITECT to bear additional costs which are a result of a change in the scope of services directed by the CRA, delays in proceeding with the construction schedule, or other matters reasonably beyond ARCHITECT's control. The ARCHITECT shall utilize its best efforts to design the project to meet the approved budget.
- E. The ARCHITECT shall be responsible for the professional quality, technical accuracy, timely completion, compliance with regulations and rules, and the coordination with all appropriate agencies of all designs, drawings, specifications, reports and other services furnished by the ARCHITECT under this AGREEMENT. If the CRA determines that within industry standards there are any errors, omissions or other deficiencies not caused by sources outside of the ARCHITECT's control in the ARCHITECT's designs, drawings, specifications, reports and other such services within the scope of services for

said projects, the ARCHITECT shall, without additional compensation, correct or revise said errors or omissions.

- F. Approval by the CRA of drawings, designs, specifications, reports and incidental professional services or materials furnished hereunder shall not in any way relieve the ARCHITECT of responsibility for the technical adequacy of its work. The CRA's review, approval or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights under this AGREEMENT or of any cause of action arising out of the performance of this AGREEMENT.
 - G. The ARCHITECT shall attend all meetings, as specified or as defined under Paragraph 1 above and/or each work assignment of the CRA Board or any other City Board, or other agency, where the project is discussed, unless the CRA's Executive Director or designee declares such attendance and participation is not necessary. In addition, the ARCHITECT shall attend all additional meetings as may be required to facilitate the project.
4. The method of payment for the services rendered by ARCHITECT shall be as follows:
- A. The CRA agrees to pay the ARCHITECT for all services rendered based upon the established hourly rate including overhead and profit as shown in **Exhibit "A"**. The rates listed in **Exhibit "A"** will be effective during the initial three-year term of this Agreement. The rates will be revised annually thereafter and modified upon approval of the CRA. Additionally, the CRA shall pay the ARCHITECT such other direct out-of-pocket expenses as the ARCHITECT shall incur for photocopy charges, material production charges, long distance telephone and other similar charges.
 - B. For each WORK ASSIGNMENT, other than general consulting services, a budget cost ceiling for the professional services will be established by the parties. Compensation to the ARCHITECT shall not exceed the budget cost ceiling for the work assignment without prior authorization from the CRA by written amendment to the work assignment.
 - C. Payment shall be monthly in accordance with invoices for actual charges incurred during the preceding month.
5. The parties hereby agree to negotiate specific case-by-case addenda to this Agreement in order to provide the scope of specific services for individual projects through the WORK ASSIGNMENTS the ARCHITECT is directed to perform by the CRA. Such specific projects shall be other than of a general consulting nature. In the event of a specific project, the CRA reserves the right to request compensation for such specific projects to be negotiated on either a lump sum method, cost plus fixed fee method, or salary cost times multiplier method.

6. All drawings, materials, reports and other media developed by the ARCHITECT, pursuant to this Agreement, shall become sole and exclusive property of the CRA, and the ARCHITECT shall deliver same to the CRA, in a timely manner, upon written request by the CRA for same. In the event the CRA terminates this Agreement, ARCHITECT shall promptly deliver all drawings, materials, reports, and other media developed by the ARCHITECT to the CRA. All documents including drawings and specifications prepared or furnished by ARCHITECT (and ARCHITECT's independent professional associates, subcontractors and consultants) pursuant to this Agreement are instruments of service in respect of the Project and ARCHITECT shall retain an ownership and property interest therein whether or not the Project is completed. The CRA may make and retain copies for information and reference in connection with the use and occupancy of the Project by the CRA and others; however, such documents are not intended or represented to be suitable for reuse by the CRA or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by ARCHITECT, or by ARCHITECT's independent professional associates, subcontractor or consultants, shall be at CRA's sole risk and without liability to ARCHITECT. Any such verification or adaptation will entitle ARCHITECT to further compensation rates to be agreed upon by the CRA and ARCHITECT.

7. Without limiting any of the other obligations or liabilities of the ARCHITECT, the ARCHITECT shall, at his own expense, provide and maintain in force, until all of its services to be performed under this Agreement have been completed and accepted by the CRA (or for such duration as it otherwise specified herein), the following insurance coverage's:

A. Worker's Compensation Insurance to apply to all of the ARCHITECT's employees in compliance with the "Worker's Compensation Law" of the State of Florida and all applicable Federal Laws.

Employer's Liability with limits of \$100,000 per person, \$500,000 per occurrence and \$100,000 per each disease.

B. Comprehensive General Liability with minimum limits of one million dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements other than ISO Endorsement GL 21 06 (Engineers, Landscape Architects, Architects, or Surveyors Professional Liability exclusion), as Filed by the Insurance Services Office, shall be in effect for three (3) years following the expiration or termination of this Agreement, and must include:

1. Premises and/or Operations
2. Independent ARCHITECTs
3. Products and Completed Operations- ARCHITECTS shall

maintain in force until at least three years after completion of all services required under this Agreement, coverage for Products and Completed Operations, including Broad Form Property Damage.

4. Broad Form Property Damage
5. Contractual Coverage applicable to this specific AGREEMENT
6. Personal Injury Coverage with minimum limits of coverage equal to those required for Bodily Injury Liability.

C. Business Automobile Liability with minimum limits of One Million and 00/100 Dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:

1. Owned Vehicles
2. Hired and Non-Owned Vehicles
3. Employers' Non-Ownership

D. Professional Liability Insurance with minimum limits per occurrence applicable to CRA projects as follows:

	<u>Construction Cost Range</u>	<u>Limit</u>
1.	0 - 99,000	\$ 250,000
2.	100,000 - 299,000	500,000
3.	300,000 - 499,000	750,000
4.	500,000 – Above	1,000,000

Coverage shall be afforded on a form acceptable to the CRA. ARCHITECT shall maintain such professional liability insurance until at least three (3) years after a Certificate of Occupancy is issued. ARCHITECT shall insure that sub-consultants used for any portion of the project, maintain adequate levels of Professional Liability Insurance.

E. Prior to commencement of services, the ARCHITECT shall provide to the CRA Certificates of Insurance evidencing the insurance coverage specified in the foregoing Paragraphs 7A, 7B, 7C, and 7D. All policies covered within subparagraphs 7A, 7B, 7C, and 7D, shall be endorsed to provide the CRA with thirty (30) days' notice of cancellation and/or restriction. The CRA shall be named as an additional insured as to ARCHITECT's liability on policies referenced in this Section. The required Certificates of Insurance shall not only name the types of policies provided, but also shall refer specifically to this Agreement and section and to the above paragraphs in accordance with which insurance is being furnished, and shall state that such

insurance is as required by such paragraphs of this Agreement. The ARCHITECT shall also make available to the CRA a certified copy of the professional liability insurance policy required by paragraph 7D above for the CRA's review. Upon request, the ARCHITECT shall provide copies of all other insurance policies.

F. If the initial insurance policies required this Agreement expire prior to the completion of the services, renewal Certificates of Insurance of policies shall be furnished thirty (30) days prior to the date of their expiration. For Notice of Cancellation and/or Restriction; the policies must be endorsed to provide the CRA with thirty (30) days' notice of cancellation and/or restriction.

G. The ARCHITECT's insurance shall apply on a primary basis.

H. A waiver of Subrogation shall be provided on all policies of insurance.

8. **INDEMNIFICATION:** The ARCHITECT shall indemnify and hold harmless the CRA, its officers, directors, and employees, from or on account of all liabilities, damages, losses and costs at trial and appellate levels, sustained by any person or persons, to the extent actually caused by the negligence, recklessness, or intentional wrongful misconduct of the ARCHITECT and any persons employed or utilized by the ARCHITECT in the performance of the services pursuant to this Agreement, and any associated Work Authorization (excluding the actual or alleged negligence, or actions based upon the willful, wanton or intentional misconduct of the CRA or its officers, directors, agents or employees, as well as other exclusions provided by F.S. 725.06(1)(c). The ARCHITECT agrees that negligent, reckless or intentional wrongful misconduct also includes but is not limited to the violation of any Federal, State, County or City laws, by-laws, ordinances or regulations by the ARCHITECT, his subcontractors, agents, servants or employees. ARCHITECT further agrees to indemnify and save harmless the CRA from all such claims and fees, and from any and all suits and actions of every name and description that may be brought against the CRA on account of any claims, fees, royalties, or costs for any invention or patent, and from any and all suits and actions that may be brought against the CRA for the infringement of any and all patents or patent rights claimed by any person, firm, or corporation.

9. **PUBLIC ENTITY CRIMES:** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as an ARCHITECT, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO (Currently \$25,000) for a period of 36 months from the date of being placed on the convicted vendor list.

10. **CERTIFICATION AND SCRUTINIZED COMPANY REQUIREMENTS:** The CRA shall have the option to terminate this agreement/contract if ARCHITECT:

- A. Is found to have submitted a false certification as provided under section 287.135 (5) Florida Statutes;
- B. Has been placed on the Scrutinized Companies that Boycott Israel List;
- C. 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
- D. Has been engaged in business operations in Cuba or Syria.

11. **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 administered 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.

12. **PROHIBITION OF CONTINGENT FEES:** The ARCHITECT warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the ARCHITECT to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the ARCHITECT any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement. For the breach or violation of this provision, the CRA shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration pursuant to section 287.055(6), Florida Statutes.

13. **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:

Jeff Costello, 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 No. (561) 276-9400
Facsimile No. (954) 771-4923

For ARCHITECT: Jeff Suiter
EDSA, Inc.
1512 E. Broward Blvd, STE 110
Fort Lauderdale, FL
Telephone No. (954) 524-3330
Facsimile No. (954) 524-0177

14. **DEFAULT:** In the event the ARCHITECT fails to comply with the provisions of this Agreement, the CRA may declare the ARCHITECT 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 ARCHITECT 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 ARCHITECT in the event of default, shall be determined by deducting any additional costs, charges and/or damages incurred by the CRA due to the ARCHITECT'S default.

15. **WARRANTY:** ARCHITECT warrants that its services are to be performed within the limits prescribed by the CRA with the usual thoroughness and in conformance with all applicable professional landscape architectural standards.

16. **MISCELLANEOUS**

- A. **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.
- B. **Law Governing:** This Agreement shall be governed by and construed in accordance with the Laws of the State of Florida.
- C. **Venue for litigation concerning this Agreement shall be in Palm Beach County, Florida.**
- D. **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.

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

- A. Keep and maintain public records required by the CRA to perform the service.
- 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 contract term and following completion of the contract if the ARCHITECT does not transfer the records to the CRA.
- D. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the ARCHITECT 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 ARCHITECT 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 ARCHITECT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ARCHITECT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT

**RENEE JADUSINGH, ESQ.
561-276-8640
JADUSINGHR@MYDELRAYBEACH.COM
20 NORTH SWINTON AVENUE
DELRAY BEACH, FLORIDA 33444**

18. **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.

19. This Agreement shall not be valid until signed by the **CRA** Chair.

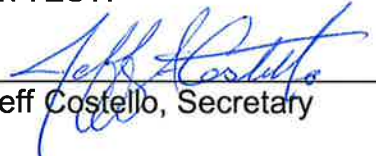
IN WITNESS WHEREOF, the DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY Board of Commissioners has made and executed this Agreement on behalf of the CRA and ARCHITECT has hereunto set its hand the day and year written above.

DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY


By: 

Shelly Petrolia, Chair

ATTEST:


Jeff Costello, Secretary

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


General Counsel

ARCHITECT:

ATTEST:

Secretary

EDCA

BY:

Print Name: JEFFREY SUTTER

Title: ASSOCIATE PRINCIPAL

STATE OF FLORIDA)
COUNTY OF BROWARD)SS:
~~PALM BEACH~~)

The foregoing instrument was acknowledged before me this 25th day of September, 2018, by Jeffrey Sutter, as Associate Principal (name of officer or agent, title of officer or agent), of EDSA, Inc. (name of corporation acknowledging), a Florida (state or place of incorporation) corporation, on behalf of the corporation. He is personally known to me or has produced N/A (type of identification) as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 25 day of September, 2018.

Joann Amaral
NOTARY PUBLIC

My Commission Expires:

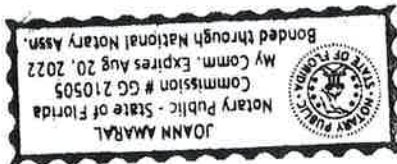


EXHIBIT "A"
FOR HOURLY SERVICES

October 2018

EDSA, Inc.

<u>Staff Title</u>	<u>Hourly Rate</u>
Principal	\$ 240.00
Associate Principal	\$ 220.00
Vice President	\$ 180.00
Senior Associate	\$ 150.00
Associate	\$ 130.00
Designer	\$ 110.00
Intern	\$ 55.00
Administrative Support	\$ 100.00

Copies

Black & White (24" x 36")	<u>\$2.50</u>
Color (24" x 36")	<u>\$13.00</u>
Black & White (8½" x 11" & 11" x 17")	\$ no charge (*)
Color (8 ½" x 11" & 11" x 17")	\$ no charge (*)

Note: (*) Incidental in house 8½" and 11" copies will not be charged. Large orders will be sent to outside copy center and cost charged as a direct reimbursable expense to Client.

No Mileage Will be Charged on Any Project

EXHIBIT "B"
SAMPLE
CONSULTING WORK ASSIGNMENT

WORK ASSIGNMENT
BETWEEN

THE DELRAY BEACH
COMMUNITY REDEVELOPMENT AGENCY

AND

CONSULTANT NAME

This Consulting Work Assignment is entered into this ____ day of ____, **201_**, by and between the **DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY**, hereinafter referred to as "CRA" and **CONSULTANT NAME** hereinafter referred to as "CONSULTANT".

W I T N E S S E T H:

WHEREAS, the CRA and the CONSULTANT previously entered into an Agreement for Professional Contracting Services dated ____, **201_**, the "Original Agreement"); and

WHEREAS, the CRA and the CONSULTANT are authorized to enter into Work Assignments in order to provide for additional services to be provided by the CONSULTANT for the CRA, pursuant to the Original Agreement; and

WHEREAS, the CRA and the CONSULTANT desire to enter into this Work Assignment in order to provide for the CONSULTANT to provide additional services pursuant to the Original Agreement, except a modified herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the CRA and the CONSULTANT agree as follows:

1. The "WHEREAS" clauses recited above are hereby incorporated herein by reference.

2. The CRA authorizes the CONSULTANT to perform additional services as provided in this Work Assignment for the following CRA Project:

NAME OF PROJECT

3. The Scope of Services for the Project, as provided in the Original Agreement, is hereby amended in order to authorize the CONSULTANT to provide the

Scope of Services as described on **Exhibit "A"**, to this Work Assignment, which is attached hereto and incorporated herein by reference.

4. The Budget for the Project as stated in the Original Agreement is hereby amended to reflect the adjustments indicated on **Exhibit "A"**, to this Work Assignment, which is attached hereto and incorporated herein by reference.

5. The Completion Date for the Project as stated in the Original Agreement is hereby amended to provide for the CONSULTANT to complete the Scope of Services described in **Exhibit "A"** to this Work Assignment, which is attached hereto and incorporated herein by reference, no later than ____ days (exclusive of construction) after the CRA executes this Work Assignment, with extensions as approved by the CRA.

6. This Work Assignment is approved contingent upon the CRA's acceptance of and satisfaction with the completion of the services rendered in the previous phase or as encompassed in the Original Agreement, as may have been amended by any prior Work Assignments entered into between the CRA and the CONTRACTOR. If the CRA, in its sole discretion, is unsatisfied with the services provided in the previous phase, or prior Work Assignment, the CRA may terminate the Original Agreement without incurring any further liability.

7. The CONSULTANT may not commence work on any Work Assignment, including this Work Assignment, as approved by the CRA, without a further notice to proceed issued in writing by the CRA Executive Director, or her authorized representative.

8. The Original Agreement, as may have been modified by prior Work Assignments, and except as modified herein, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Work Assignment as of the day and year indicated above.

ATTEST:

**DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY**

By: _____
Jeff Costello, Executive Director

BY: _____
Shelly Petrolia, Chair

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

General Counsel

CONSULTANT:

By: _____
(Signature)

(Print Name and Title)

Attest:

Secretary

(CORPORATE SEAL)

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

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared _____ as _____ of _____ named in the foregoing agreement and that he/she acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him/her by said _____ and that the Corporate seal affixed thereto is the true corporate seal of said Corporation.

Witness my hand and official seal in the County and State last aforesaid this _____ day of _____, 201__.

NOTARY PUBLIC

Printed Name

My Commission Expires:

EXHIBIT "A"

"NAME OF PROJECT"

I. PROJECT DESCRIPTION

- 1.1 The project is located in Delray Beach, Florida
- 1.2 Additional Professionals working on the project under contract to the CONSULTANT include:

II. SCOPE OF SERVICES

PART I –Design Development

PART II – Construction Documents

PART III – Permitting

PART IV - Bidding Assistance and Construction Services

PART V – Additional Services

III. BUDGET

IV. COMPLETION DATE

**AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES BETWEEN THE
DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY AND
KEITH & SCHNARS, P.A.**

THIS AGREEMENT ("AGREEMENT") is made and entered into as of the 1 day of October 2018, by and between the **DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY**, an entity created pursuant to Chapter 163, Part III, Florida Statutes, (hereinafter referred to as the "CRA"), and **KEITH & SCHNARS, P.A.**, a Florida corporation (hereinafter referred to as the "ARCHITECT").

WITNESSETH:

WHEREAS, the CRA is desirous of retaining a firm to provide professional landscape architectural services on an as needed basis by the CRA,

WHEREAS, the parties are desirous of providing within the terms of this Agreement the flexibility for additional specific projects to be undertaken by the ARCHITECT at the direction of the CRA.

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained the parties hereby agree as follows:

1. The Scope of Work is for General Consulting Service and other landscape architectural services which address landscape architectural projects as they present themselves during the agreement period.

The CRA anticipates that they may be in need of landscape architectural services related to community redevelopment and implementation of the Community Redevelopment Plan during the term of this Agreement. The professional general consulting landscape architectural services provided throughout the term of this Agreement are needed in support of the community redevelopment effort, including, but not limited to providing planning, design, construction documents, bidding, permitting, and construction administration services for various improvements on a continuing contract basis for projects in the Downtown Delray Beach Master Plan, West Atlantic Avenue Redevelopment Plan, the City of Delray Beach Community Redevelopment Plan, and the Southwest Area Neighborhood Redevelopment Plan for which construction costs generally do not exceed \$2,000,000.00; and study activity when the fee for such professional service does not exceed \$200,000, pursuant to Florida Statute Section 287.055 (Consultants' Competitive Negotiation Act).

At this point and time, the level of work effort on any and all of the reference projects has not been determined. No assurance is given that any of the projects will materialize during the term of this Agreement and that the CRA specifically reserves the right to award any or all of said projects to its other general consultant or to other landscape architectural firms pursuant to the Florida Statutes

Consultants Competitive Negotiations Act and applicable procurement resolutions of the CRA.

The following definitions and general conditions shall apply to this AGREEMENT and subsequent addendum:

- A. THE SCOPE OF WORK may be implemented in phases as set forth by this Agreement and by WORK ASSIGNMENTS, which are attached hereto and made a part hereof, and as also may be added as approved by the CRA from time to time.
- B. A WORK ASSIGNMENT is a form to be used to authorize work, projects, and services. The form shall be executed by the CRA's and ARCHITECT's representatives. A CRA project tracking name or number shall be identified on the form. A sample form of the service authorization is attached as **Exhibit "B"** to this AGREEMENT. The projects, works, and services to be performed by the ARCHITECT, and time for completion of the particular phase of the work by ARCHITECT, shall be authorized by a WORK ASSIGNMENT. The WORK ASSIGNMENT shall include the scope of work to be performed; the budget cost, complete with an itemization of man-hours, wage rates, reimbursable expenses, and other related costs; schedule for completion and name of project manager. The ARCHITECT agrees not to bill the CRA for meetings required to negotiate or finalize the WORK ASSIGNMENT. The WORK ASSIGNMENT shall be approved by the CRA Board, and signed by the CRA's authorized representative and the ARCHITECT's authorized representative.
- C. PHASES: A phased approach may be utilized. The CRA and the ARCHITECT shall have the right to negotiate the terms of each phase as contained within each WORK ASSIGNMENT, and to reject any work assignment, if the parties cannot agree to the terms of the service authorization. The ARCHITECT agrees not to bill the CRA for meetings required to negotiate or finalize the scope of work within each phase. In the event the parties cannot agree, the CRA may select the next proposer or seek additional proposals in order to complete the subsequent phase(s) of the project. This phased approach shall not waive the CRA's right to terminate the ARCHITECT's contract during any phase of the project.

2. The term of this Agreement shall be for a period of three (3) years commencing October 1st, 2018. The CRA reserves the right to renew this Agreement for two (2) additional one (1) year terms, by providing the ARCHITECT with written notice of CRA's election to do so, prior to the expiration of the then current term. Notwithstanding the foregoing, either party may cancel this Agreement, at any time, upon thirty (30) days advance written notice.

3. The ARCHITECT shall be deemed to be the "ARCHITECT of Record" for the CRA for specific projects assigned to the ARCHITECT during the term of this Agreement and the Executive Director or designee of the CRA is designated as the CRA's liaison with the ARCHITECT. The ARCHITECT designates Kirk Hoosac, as its liaison with the CRA. Any changes to the above designations shall be provided in writing to the CRA and shall be approved by the CRA's Executive Director. The general duties of the ARCHITECT are as follows:

- A. The relationship of the ARCHITECT to the CRA will be that of a professional CONSULTANT, and the CONSULTANT will provide the professional and technical services required under this AGREEMENT in accordance with acceptable professional practices and ethical standards. No employer/employee relationships shall be deemed to be established and the CONSULTANT, its agents, subcontractors, and employees shall be independent contractors at all times.
- B. Professional and Technical Services. It shall be the responsibility of the ARCHITECT to work with the CRA and apprise the CRA of solutions to problems and the approach or technique to be used towards accomplishment of the CRA's objectives as set forth in WORK ASSIGNMENTS, which will be made a part of this AGREEMENT upon execution by both parties.
- C. The scope of services to be provided shall be covered in detail in WORK ASSIGNMENTS.
- D. As part of each Work Assignment, the CRA will establish a budget for each project awarded to ARCHITECT. As part of the Work Assignment, the ARCHITECT shall be responsible for providing new designs, drawings, specifications, reports and other applicable services at a cost as specified in the Work Assignment. The Work Assignment shall provide that if the budget for the landscape architectural services for the entire project, as provided in the Work Assignment, is exceeded by more than five percent (5%), during and up to completion of the design phase of the project, the ARCHITECT and the CRA shall enter into a written amendment to the Work Assignment to provide for the additional costs. Nothing contained herein shall require the ARCHITECT to bear additional costs which are a result of a change in the scope of services directed by the CRA, delays in proceeding with the construction schedule, or other matters reasonably beyond ARCHITECT's control. The ARCHITECT shall utilize its best efforts to design the project to meet the approved budget.
- E. The ARCHITECT shall be responsible for the professional quality, technical accuracy, timely completion, compliance with regulations and rules, and the coordination with all appropriate agencies of all designs, drawings, specifications, reports and other services furnished by the ARCHITECT

under this AGREEMENT. If the CRA determines that within industry standards there are any errors, omissions or other deficiencies not caused by sources outside of the ARCHITECT's control in the ARCHITECT's designs, drawings, specifications, reports and other such services within the scope of services for said projects, the ARCHITECT shall, without additional compensation, correct or revise said errors or omissions.

F. Approval by the CRA of drawings, designs, specifications, reports and incidental professional services or materials furnished hereunder shall not in any way relieve the ARCHITECT of responsibility for the technical adequacy of its work. The CRA's review, approval or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights under this AGREEMENT or of any cause of action arising out of the performance of this AGREEMENT.

G. The ARCHITECT shall attend all meetings, as specified or as defined under Paragraph 1 above and/or each work assignment of the CRA Board or any other City Board, or other agency, where the project is discussed, unless the CRA's Executive Director or designee declares such attendance and participation is not necessary. In addition, the ARCHITECT shall attend all additional meetings as may be required to facilitate the project.

4. The method of payment for the services rendered by ARCHITECT shall be as follows:

A. The CRA agrees to pay the ARCHITECT for all services rendered based upon the established hourly rate including overhead and profit as shown in **Exhibit "A"**. The rates listed in **Exhibit "A"** will be effective during the initial three-year term of this Agreement. The rates will be revised annually thereafter and modified upon approval of the CRA. Additionally, the CRA shall pay the ARCHITECT such other direct out-of-pocket expenses as the ARCHITECT shall incur for photocopy charges, material production charges, long distance telephone and other similar charges.

B. For each WORK ASSIGNMENT, other than general consulting services, a budget cost ceiling for the professional services will be established by the parties. Compensation to the ARCHITECT shall not exceed the budget cost ceiling for the work assignment without prior authorization from the CRA by written amendment to the work assignment.

C. Payment shall be monthly in accordance with invoices for actual charges incurred during the preceding month.

5. The parties hereby agree to negotiate specific case-by-case addenda to this Agreement in order to provide the scope of specific services for individual projects through the WORK ASSIGNMENTS the ARCHITECT is directed to perform by the CRA. Such

specific projects shall be other than of a general consulting nature. In the event of a specific project, the CRA reserves the right to request compensation for such specific projects to be negotiated on either a lump sum method, cost plus fixed fee method, or salary cost times multiplier method.

6. All drawings, materials, reports and other media developed by the ARCHITECT, pursuant to this Agreement, shall become sole and exclusive property of the CRA, and the ARCHITECT shall deliver same to the CRA, in a timely manner, upon written request by the CRA for same. In the event the CRA terminates this Agreement, ARCHITECT shall promptly deliver all drawings, materials, reports, and other media developed by the ARCHITECT to the CRA. All documents including drawings and specifications prepared or furnished by ARCHITECT (and ARCHITECT's independent professional associates, subcontractors and consultants) pursuant to this Agreement are instruments of service in respect of the Project and ARCHITECT shall retain an ownership and property interest therein whether or not the Project is completed. The CRA may make and retain copies for information and reference in connection with the use and occupancy of the Project by the CRA and others; however, such documents are not intended or represented to be suitable for reuse by the CRA or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by ARCHITECT, or by ARCHITECT's independent professional associates, subcontractor or consultants, shall be at CRA's sole risk and without liability to ARCHITECT. Any such verification or adaptation will entitle ARCHITECT to further compensation rates to be agreed upon by the CRA and ARCHITECT.

7. Without limiting any of the other obligations or liabilities of the ARCHITECT, the ARCHITECT shall, at his own expense, provide and maintain in force, until all of its services to be performed under this Agreement have been completed and accepted by the CRA (or for such duration as it otherwise specified herein), the following insurance coverage's:

A. Worker's Compensation Insurance to apply to all of the ARCHITECT's employees in compliance with the "Worker's Compensation Law" of the State of Florida and all applicable Federal Laws.

Employer's Liability with limits of \$100,000 per person, \$500,000 per occurrence and \$100,000 per each disease.

B. Comprehensive General Liability with minimum limits of one million dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements other than ISO Endorsement GL 21 06 (Engineers, Landscape Architects, Architects, or Surveyors Professional Liability exclusion), as Filed by the Insurance Services Office, shall be in effect for three (3) years following the expiration or termination of this Agreement, and must include:

1. Premises and/or Operations
2. Independent ARCHITECTS
3. Products and Completed Operations- ARCHITECTS shall maintain in force until at least three years after completion of all services required under this Agreement, coverage for Products and Completed Operations, including Broad Form Property Damage.
4. Broad Form Property Damage
5. Contractual Coverage applicable to this specific AGREEMENT
6. Personal Injury Coverage with minimum limits of coverage equal to those required for Bodily Injury Liability.

C. Business Automobile Liability with minimum limits of One Million and 00/100 Dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:

1. Owned Vehicles
2. Hired and Non-Owned Vehicles
3. Employers' Non-Ownership

D. Professional Liability Insurance with minimum limits per occurrence applicable to CRA projects as follows:

	<u>Construction Cost Range</u>	<u>Limit</u>
1.	0 - 99,000	\$ 250,000
2.	100,000 - 299,000	500,000
3.	300,000 - 499,000	750,000
4.	500,000 – Above	1,000,000

Coverage shall be afforded on a form acceptable to the CRA. ARCHITECT shall maintain such professional liability insurance until at least three (3) years after a Certificate of Occupancy is issued. ARCHITECT shall insure that sub-consultants used for any portion of the project, maintain adequate levels of Professional Liability Insurance.

E. Prior to commencement of services, the ARCHITECT shall provide to the CRA Certificates of Insurance evidencing the insurance coverage specified in the foregoing Paragraphs 7A, 7B, 7C, and 7D. All policies covered within subparagraphs 7A, 7B, 7C, and 7D, shall be endorsed to provide the CRA with thirty (30) days' notice of cancellation and/or restriction. The CRA shall be named as an additional insured as to

ARCHITECT's liability on policies referenced in this Section. The required Certificates of Insurance shall not only name the types of policies provided, but also shall refer specifically to this Agreement and section and to the above paragraphs in accordance with which insurance is being furnished, and shall state that such insurance is as required by such paragraphs of this Agreement. The ARCHITECT shall also make available to the CRA a certified copy of the professional liability insurance policy required by paragraph 7D above for the CRA's review. Upon request, the ARCHITECT shall provide copies of all other insurance policies.

F. If the initial insurance policies required this Agreement expire prior to the completion of the services, renewal Certificates of Insurance of policies shall be furnished thirty (30) days prior to the date of their expiration. For Notice of Cancellation and/or Restriction; the policies must be endorsed to provide the CRA with thirty (30) days' notice of cancellation and/or restriction.

G. The ARCHITECT's insurance shall apply on a primary basis.

H. A waiver of Subrogation shall be provided on all policies of insurance.

8. **INDEMNIFICATION:** The ARCHITECT shall indemnify and hold harmless the CRA, its officers, directors, and employees, from or on account of all liabilities, damages, losses and costs at trial and appellate levels, sustained by any person or persons, to the extent actually caused by the negligence, recklessness, or intentional wrongful misconduct of the ARCHITECT and any persons employed or utilized by the ARCHITECT in the performance of the services pursuant to this Agreement, and any associated Work Authorization (excluding the actual or alleged negligence, or actions based upon the willful, wanton or intentional misconduct of the CRA or its officers, directors, agents or employees, as well as other exclusions provided by F.S. 725.06(1)(c). The ARCHITECT agrees that negligent, reckless or intentional wrongful misconduct also includes but is not limited to the violation of any Federal, State, County or City laws, by-laws, ordinances or regulations by the ARCHITECT, his subcontractors, agents, servants or employees. ARCHITECT further agrees to indemnify and save harmless the CRA from all such claims and fees, and from any and all suits and actions of every name and description that may be brought against the CRA on account of any claims, fees, royalties, or costs for any invention or patent, and from any and all suits and actions that may be brought against the CRA for the infringement of any patents or patent rights claimed by any person, firm, or corporation.

9. **PUBLIC ENTITY CRIMES:** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as an ARCHITECT, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in

excess of the threshold amount provided in Section 287.017, for CATEGORY TWO (Currently \$25,000) for a period of 36 months from the date of being placed on the convicted vendor list.

10. CERTIFICATION AND SCRUTINIZED COMPANY REQUIREMENTS: The CRA shall have the option to terminate this agreement/contract if ARCHITECT:

- A. Is found to have submitted a false certification as provided under section 287.135 (5) Florida Statutes;
- B. Has been placed on the Scrutinized Companies that Boycott Israel List;
- C. 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
- D. Has been engaged in business operations in Cuba or Syria.

11. 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 administered 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.

12. PROHIBITION OF CONTINGENT FEES: The ARCHITECT warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the ARCHITECT to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the ARCHITECT any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement. For the breach or violation of this provision, the CRA shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration pursuant to section 287.055(6), Florida Statutes.

13. 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: Jeff Costello, 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 No. (561) 276-9400
Facsimile No. (954) 771-4923

For ARCHITECT: Bruce Reed
Keith & Schnars, P.A.
6500 N. Andrews Avenue
Fort Lauderdale, FL
Telephone No. (954) 776-1616
Facsimile No. (954) 771-7690

14. DEFAULT: In the event the ARCHITECT fails to comply with the provisions of this Agreement, the CRA may declare the ARCHITECT 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 ARCHITECT 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 ARCHITECT in the event of default, shall be determined by deducting any additional costs, charges and/or damages incurred by the CRA due to the ARCHITECT'S default.

15. ARCHITECT represents that its services are to be performed within the limits prescribed by the CRA with the usual thoroughness and in conformance with all applicable professional landscape architectural standards.

16. MISCELLANEOUS

- A. 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.
- B. Law Governing: This Agreement shall be governed by and construed in accordance with the Laws of the State of Florida.

- C. Venue for litigation concerning this Agreement shall be in Palm Beach County, Florida.
- D. 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.

17. PUBLIC RECORDS: ARCHITECT shall comply with the applicable provisions of Chapter 119, Florida Statutes. Specifically, ARCHITECT shall:

- A. Keep and maintain public records required by the CRA to perform the service.
- 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 contract term and following completion of the contract if the ARCHITECT does not transfer the records to the CRA.
- D. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the ARCHITECT 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 ARCHITECT 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 ARCHITECT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ARCHITECT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT

RENEE JADUSINGH, ESQ.
561-276-8640
JADUSINGHR@MYDELRAYBEACH.COM
20 NORTH SWINTON AVENUE
DELRAY BEACH, FLORIDA 33444

18. 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.

19. This Agreement shall not be valid until signed by the CRA Chair.

(SIGNATURE PAGES TO FOLLOW.)

Agreement on behalf of the CRA and ARCHITECT has hereunto set its hand the day and year written above.

DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY

By: _____

Shelly Petrolia, Chair

ATTEST:

Jeff Costello, Secretary

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

General Counsel

ARCHITECT:

ATTEST:

Secretary

BY: _____

Print Name: BRUCE REED

Title: VCE PRESIDENT

STATE OF FLORIDA

COUNTY OF PALM BEACH

BROWARD

)
)SS:
)

The foregoing instrument was acknowledged before me this 2nd day of October, 2018, by BRUCE REED, as Vice President (name of officer or agent, title of officer or agent), of KEITH and SCHAARS (name of corporation acknowledging), a FLORIDA (state or place of incorporation) corporation, on behalf of the corporation. N/A He/She is personally known to me or has produced (type of identification) as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 2nd day of October, 2018.

Jo-Phyll Hallen
NOTARY PUBLIC

My Commission Expires: May 10, 2022



JOI-PHYLE HALLEN
Commission # GG 197830
Expires May 10, 2022
Bonded Thru Budget Notary Services

EXHIBIT "A"
FOR HOURLY SERVICES

October 2018

Keith and Schnars, P.A.

<u>Staff Title</u>	<u>Hourly Rate</u>
Director	\$ 200.00
Principal Landscape Architect	\$ 225.00
Landscape Architect	\$ 180.00
Associate I	\$ 100.00
Associate II	\$ 120.00
Senior Associate	\$ 140.00
Project Manager	\$ 160.00
Clerical / Admin	\$ 70.00

Copies

Black & White (24" x 36")	<u>\$3.00</u>
Color (24" x 36")	<u>\$6.00</u>
Black & White (8½" x 11" & 11" x 17")	\$ no charge (*)
Color (8 ½" x 11" & 11" x 17")	\$ no charge (*)

Note: (*) Incidental in house 8½" and 11" copies will not be charged. Large orders will be sent to outside copy center and cost charged as a direct reimbursable expense to Client.

No Mileage Will be Charged on Any Project

**EXHIBIT "B" (SAMPLE)
CONSULTING WORK ASSIGNMENT**

**WORK ASSIGNMENT
BETWEEN**

**THE DELRAY BEACH
COMMUNITY REDEVELOPMENT AGENCY**

AND

CONSULTANT NAME

This Consulting Work Assignment is entered into this ____ day of ____, **201_**, by and between the **DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY**, hereinafter referred to as "CRA" and **CONSULTANT NAME** hereinafter referred to as "CONSULTANT".

W I T N E S S E T H:

WHEREAS, the CRA and the CONSULTANT previously entered into an Agreement for Professional Contracting Services dated ____, **201_**, the "Original Agreement"); and

WHEREAS, the CRA and the CONSULTANT are authorized to enter into Work Assignments in order to provide for additional services to be provided by the CONSULTANT for the CRA, pursuant to the Original Agreement; and

WHEREAS, the CRA and the CONSULTANT desire to enter into this Work Assignment in order to provide for the CONSULTANT to provide additional services pursuant to the Original Agreement, except a modified herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the CRA and the CONSULTANT agree as follows:

1. The "WHEREAS" clauses recited above are hereby incorporated herein by reference.

2. The CRA authorizes the CONSULTANT to perform additional services as provided in this Work Assignment for the following CRA Project:

NAME OF PROJECT

3. The Scope of Services for the Project, as provided in the Original Agreement, is hereby amended in order to authorize the CONSULTANT to provide the

Scope of Services as described on **Exhibit "A"**, to this Work Assignment, which is attached hereto and incorporated herein by reference.

4. The Budget for the Project as stated in the Original Agreement is hereby amended to reflect the adjustments indicated on **Exhibit "A"**, to this Work Assignment, which is attached hereto and incorporated herein by reference.

5. The Completion Date for the Project as stated in the Original Agreement is hereby amended to provide for the CONSULTANT to complete the Scope of Services described in **Exhibit "A"** to this Work Assignment, which is attached hereto and incorporated herein by reference, no later than ____ days (exclusive of construction) after the CRA executes this Work Assignment, with extensions as approved by the CRA.

6. This Work Assignment is approved contingent upon the CRA's acceptance of and satisfaction with the completion of the services rendered in the previous phase or as encompassed in the Original Agreement, as may have been amended by any prior Work Assignments entered into between the CRA and the CONTRACTOR. If the CRA, in its sole discretion, is unsatisfied with the services provided in the previous phase, or prior Work Assignment, the CRA may terminate the Original Agreement without incurring any further liability.

7. The CONSULTANT may not commence work on any Work Assignment, including this Work Assignment, as approved by the CRA, without a further notice to proceed issued in writing by the CRA Executive Director, or her authorized representative.

8. The Original Agreement, as may have been modified by prior Work Assignments, and except as modified herein, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Work Assignment as of the day and year indicated above.

ATTEST:

**DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY**

By: _____
Jeff Costello, Executive Director

BY: _____
Shelly Petrolia, Chair

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

General Counsel

CONSULTANT:

By: _____
(Signature)

(Print Name and Title)

Attest:

Secretary

(CORPORATE SEAL)

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

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared _____ as _____ of _____ named in the foregoing agreement and that he/she acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him/her by said _____ and that the Corporate seal affixed thereto is the true corporate seal of said Corporation.

Witness my hand and official seal in the County and State last aforesaid this _____ day of _____, 201__.

NOTARY PUBLIC

Printed Name

My Commission Expires:

EXHIBIT "A"

"NAME OF PROJECT"

I. PROJECT DESCRIPTION

- 1.1 The project is located in Delray Beach, Florida
- 1.2 Additional Professionals working on the project under contract to the CONSULTANT include:

II. SCOPE OF SERVICES

PART I –Design Development

PART II – Construction Documents

PART III – Permitting

PART IV - Bidding Assistance and Construction Services

PART V – Additional Services

III. BUDGET

IV. COMPLETION DATE

**AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES BETWEEN THE
DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY AND
KIMLEY-HORN AND ASSOCIATES, INC.**

THIS AGREEMENT ("AGREEMENT") is made and entered into as of the 1 day of October, 2018, by and between the **DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY**, an entity created pursuant to Chapter 163, Part III, Florida Statutes, (hereinafter referred to as the "CRA"), and **KIMLEY-HORN AND ASSOCIATES, INC.**, a Florida foreign corporation (hereinafter referred to as the "CONSULTANT").

W I T N E S S E T H :

WHEREAS, the CRA is desirous of retaining a consulting firm to provide professional landscape architectural services on an as needed basis by the CRA,

WHEREAS, the parties are desirous of providing within the terms of this Agreement the flexibility for additional specific projects to be undertaken by the CONSULTANT at the direction of the CRA.

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained the parties hereby agree as follows:

1. The Scope of Work is for General Consulting Service and other landscape architectural services which address projects as they present themselves during the agreement period.

The CRA anticipates that they may be in need of landscape architectural services related to community redevelopment and implementation of the Community Redevelopment Plan during the term of this Agreement. The professional general consulting services provided throughout the term of this Agreement are needed in support of the community redevelopment effort, including, but not limited to providing planning, design, construction documents, bidding, permitting, and construction administration services for various improvements on a continuing contract basis for projects in the Downtown Delray Beach Master Plan, West Atlantic Avenue Redevelopment Plan, the City of Delray Beach Community Redevelopment Plan, and the Southwest Area Neighborhood Redevelopment Plan for which construction costs generally do not exceed \$2,000,000.00; and study activity when the fee for such professional service does not exceed \$200,000, pursuant to Florida Statute Section 287.055 (Consultants' Competitive Negotiation Act).

At this point and time, the level of work effort on any and all of the reference projects has not been determined. No assurance is given that any of the projects will materialize during the term of this Agreement and that the CRA specifically reserves the right to award any or all of said projects to its other general consultant or to other landscape architectural firms pursuant to the Florida Statutes

Consultants Competitive Negotiations Act and applicable procurement resolutions of the CRA.

The following definitions and general conditions shall apply to this AGREEMENT and subsequent addendum:

- A. THE SCOPE OF WORK may be implemented in phases as set forth by this Agreement and by WORK ASSIGNMENTS, which are attached hereto and made a part hereof, and as also may be added as approved by the CRA from time to time.
- B. A WORK ASSIGNMENT is a form to be used to authorize work, projects, and services. The form shall be executed by the CRA's and CONSULTANT's representatives. A CRA project tracking name or number shall be identified on the form. A sample form of the service authorization is attached as **Exhibit "B"** to this AGREEMENT. The projects, works, and services to be performed by the CONSULTANT, and time for completion of the particular phase of the work by CONSULTANT, shall be authorized by a WORK ASSIGNMENT. The WORK ASSIGNMENT shall include the scope of work to be performed; the budget cost, complete with an itemization of man-hours, wage rates, reimbursable expenses, and other related costs; schedule for completion and name of project manager. The CONSULTANT agrees not to bill the CRA for meetings required to negotiate or finalize the WORK ASSIGNMENT. The WORK ASSIGNMENT shall be approved by the CRA Board, and signed by the CRA's authorized representative and the CONSULTANT's authorized representative.
- C. PHASES: A phased approach may be utilized. The CRA and the CONSULTANT shall have the right to negotiate the terms of each phase as contained within each WORK ASSIGNMENT, and to reject any work assignment, if the parties cannot agree to the terms of the service authorization. The CONSULTANT agrees not to bill the CRA for meetings required to negotiate or finalize the scope of work within each phase. In the event the parties cannot agree, the CRA may select the next proposer or seek additional proposals in order to complete the subsequent phase(s) of the project. This phased approach shall not waive the CRA's right to terminate the CONSULTANT's contract during any phase of the project.

2. The term of this Agreement shall be for a period of three (3) years commencing October 1st, 2018. The CRA reserves the right to renew this Agreement for two (2) additional one (1) year terms, by providing the CONSULTANT with written notice of CRA's election to do so, prior to the expiration of the then current term. Notwithstanding the foregoing, either party may cancel this Agreement, at any time, upon thirty (30) days advance written notice.

3. The CONSULTANT shall be deemed to be the "LANDSCAPE ARCHITECT of Record" for the CRA for specific projects assigned to the CONSULTANT during the term of this Agreement and the Executive Director or designee of the CRA is designated as the CRA's liaison with the CONSULTANT. The CONSULTANT designates Jonathan Haigh, PLA, as its liaison with the CRA. Any changes to the above designations shall be provided in writing to the CRA and shall be approved by the CRA's Executive Director. The general duties of the CONSULTANT are as follows:

- A. The relationship of the LANDSCAPE ARCHITECT to the CRA will be that of a professional CONSULTANT, and the CONSULTANT will provide the professional and technical services required under this AGREEMENT in accordance with acceptable professional practices and ethical standards. No employer/employee relationships shall be deemed to be established and the CONSULTANT, its agents, subcontractors, and employees shall be independent contractors at all times.
- B. Professional and Technical Services. It shall be the responsibility of the CONSULTANT to work with the CRA and apprise the CRA of solutions to problems and the approach or technique to be used towards accomplishment of the CRA's objectives as set forth in WORK ASSIGNMENTS, which will be made a part of this AGREEMENT upon execution by both parties.
- C. The scope of services to be provided shall be covered in detail in WORK ASSIGNMENTS.
- D. The CRA has established a budget for each project awarded to CONSULTANT. The CONSULTANT shall be responsible for providing, at no additional cost to the CRA, new designs, drawings, specifications, reports and other applicable services so long as the CRA's cost for landscape architectural services for the project do not exceed five percent (5%) of the landscape architectural services budget for the project. If the budget for the landscape architectural services for the entire project is exceeded by more than five percent (5%), during and up to completion of the design phase of the project, the CONSULTANT and the CRA shall enter into a written amendment to the Agreement to provide for the additional costs. Nothing contained herein shall require the CONSULTANT to bear additional costs which are a result of a change in the scope of services directed by the CRA, delays in proceeding with the construction schedule, or other matters reasonably beyond CONSULTANT's control. The CONSULTANT shall utilize its best efforts to design the project to meet the approved budget.
- E. The CONSULTANT shall be responsible for the professional quality, technical accuracy, timely completion, compliance with regulations and rules, and the coordination with all appropriate agencies of all designs, drawings, specifications, reports and other services furnished by the

CONSULTANT under this AGREEMENT. If the CRA determines that within industry standards there are any errors, omissions or other deficiencies not caused by sources outside of the CONSULTANT's control in the CONSULTANT's designs, drawings, specifications, reports and other such services within the scope of services for said projects, the CONSULTANT shall, without additional compensation, correct or revise said errors or omissions.

- F. Approval by the CRA of drawings, designs, specifications, reports and incidental professional services or materials furnished hereunder shall not in any way relieve the CONSULTANT of responsibility for the technical adequacy of its work. The CRA's review, approval or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights under this AGREEMENT or of any cause of action arising out of the performance of this AGREEMENT.
 - G. The CONSULTANT shall attend all meetings, as specified or as defined under Paragraph 1 above and/or each work assignment of the CRA Board or any other City Board, or other agency, where the project is discussed, unless the CRA's Executive Director or designee declares such attendance and participation is not necessary. In addition, the CONSULTANT shall attend all additional meetings as may be required to facilitate the project.
4. The method of payment for the services rendered by CONSULTANT shall be as follows:
- A. The CRA agrees to pay the CONSULTANT for all services rendered based upon the established hourly rate including overhead and profit as shown in **Exhibit "A"**. The rates listed in **Exhibit "A"** will be effective during the initial three-year term of this Agreement. The rates will be revised annually thereafter and modified upon approval of the CRA. Additionally, the CRA shall pay the CONSULTANT such other direct out-of-pocket expenses as the CONSULTANT shall incur for photocopy charges, material production charges, long distance telephone and other similar charges.
 - B. For each WORK ASSIGNMENT, other than general consulting services, a budget cost ceiling for the professional services will be established by the parties. Compensation to the CONSULTANT shall not exceed the budget cost ceiling for the work assignment without prior authorization from the CRA by written amendment to the work assignment.
 - C. Payment shall be monthly in accordance with invoices for actual charges incurred during the preceding month.
5. The parties hereby agree to negotiate specific case-by-case addenda to this Agreement in order to provide the scope of specific services for individual projects through

the WORK ASSIGNMENTS the CONSULTANT is directed to perform by the CRA. Such specific projects shall be other than of a general consulting nature. In the event of a specific project, the CRA reserves the right to request compensation for such specific projects to be negotiated on either a lump sum method, cost plus fixed fee method, or salary cost times multiplier method.

6. All drawings, materials, reports and other media developed by the CONSULTANT, pursuant to this Agreement, shall become sole and exclusive property of the CRA, and the CONSULTANT shall deliver same to the CRA, in a timely manner, upon written request by the CRA for same. In the event the CRA terminates this Agreement, CONSULTANT shall promptly deliver all drawings, materials, reports, and other media developed by the CONSULTANT to the CRA. All documents including drawings and specifications prepared or furnished by CONSULTANT (and CONSULTANT's independent professional associates, subcontractors and consultants) pursuant to this Agreement are instruments of service in respect of the Project and CONSULTANT shall retain an ownership and property interest therein whether or not the Project is completed. The CRA may make and retain copies for information and reference in connection with the use and occupancy of the Project by the CRA and others; however, such documents are not intended or represented to be suitable for reuse by the CRA or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by CONSULTANT, or by CONSULTANT's independent professional associates, subcontractor or consultants, shall be at CRA's sole risk and without liability to CONSULTANT. Any such verification or adaptation will entitle CONSULTANT to further compensation rates to be agreed upon by the CRA and CONSULTANT.

7. Without limiting any of the other obligations or liabilities of the CONSULTANT, the CONSULTANT shall, at his own expense, provide and maintain in force, until all of its services to be performed under this Agreement have been completed and accepted by the CRA (or for such duration as it otherwise specified herein), the following insurance coverage's:

A. Worker's Compensation Insurance to apply to all of the CONSULTANT's employees in compliance with the "Worker's Compensation Law" of the State of Florida and all applicable Federal Laws.

Employer's Liability with limits of \$100,000 per person, \$500,000 per occurrence and \$100,000 per each disease.

B. Comprehensive General Liability with minimum limits of one million dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements other than ISO Endorsement GL 21 06 (Engineers, Architects, Landscape Architects, or Surveyors Professional Liability exclusion), as Filed by the Insurance Services Office, shall be in effect for three (3) years following the expiration

or termination of this Agreement, and must include:

1. Premises and/or Operations
2. Independent CONSULTANTs
3. Products and Completed Operations- CONSULTANT shall maintain in force until at least three years after completion of all services required under this Agreement, coverage for Products and Completed Operations, including Broad Form Property Damage.
4. Broad Form Property Damage
5. Contractual Coverage applicable to this specific AGREEMENT
6. Personal Injury Coverage with minimum limits of coverage equal to those required for Bodily Injury Liability.

C. Business Automobile Liability with minimum limits of One Million and 00/100 Dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:

1. Owned Vehicles
2. Hired and Non-Owned Vehicles
3. Employers' Non-Ownership

D. Professional Liability Insurance with minimum limits per occurrence applicable to CRA projects as follows:

	<u>Construction Cost Range</u>	<u>Limit</u>
1.	0 - 99,000	\$ 250,000
2.	100,000 - 299,000	500,000
3.	300,000 - 499,000	750,000
4.	500,000 – Above	1,000,000

Coverage shall be afforded on a form acceptable to the CRA. CONSULTANT shall maintain such professional liability insurance until at least three (3) years after a Certificate of Occupancy is issued. CONSULTANT shall insure that sub-consultants used for any portion of the project, maintain adequate levels of Professional Liability Insurance.

E. Prior to commencement of services, the CONSULTANT shall provide to the CRA Certificates of Insurance evidencing the insurance coverage specified in the foregoing Paragraphs 7A, 7B, 7C, and 7D. All policies covered within subparagraphs 7A, 7B, 7C, and 7D, shall be endorsed to provide the CRA with thirty (30) days' notice of cancellation and/or

restriction. The CRA shall be named as an additional insured as to CONSULTANT's liability on policies referenced in this Section. The required Certificates of Insurance shall not only name the types of policies provided, but also shall refer specifically to this Agreement and section and to the above paragraphs in accordance with which insurance is being furnished, and shall state that such insurance is as required by such paragraphs of this Agreement. The CONSULTANT shall also make available to the CRA a certified copy of the professional liability insurance policy required by paragraph 7D above for the CRA's review. Upon request, the CONSULTANT shall provide copies of all other insurance policies.

F. If the initial insurance policies required this Agreement expire prior to the completion of the services, renewal Certificates of Insurance of policies shall be furnished thirty (30) days prior to the date of their expiration. For Notice of Cancellation and/or Restriction; the policies must be endorsed to provide the CRA with thirty (30) days' notice of cancellation and/or restriction.

G. The CONSULTANT's insurance shall apply on a primary basis.

H. A waiver of Subrogation shall be provided on all policies of insurance.

8. **INDEMNIFICATION:** The CONSULTANT shall indemnify and hold harmless the CRA, its officers, directors, and employees, from or on account of all liabilities, damages, losses and costs at trial and appellate levels, sustained by any person or persons, to the extent actually caused by the negligence, recklessness, or intentional wrongful misconduct of the CONSULTANT and any persons employed or utilized by the CONSULTANT in the performance of the services pursuant to this Agreement, and any associated Work Authorization (excluding the actual or alleged negligence, or actions based upon the willful, wanton or intentional misconduct of the CRA or its officers, directors, agents or employees, as well as other exclusions provided by F.S. 725.06(1)(c). The CONSULTANT agrees that negligent, reckless or intentional wrongful misconduct also includes but is not limited to the violation of any Federal, State, County or City laws, by-laws, ordinances or regulations by the CONSULTANT, his subcontractors, agents, servants or employees. CONSULTANT further agrees to indemnify and save harmless the CRA from all such claims and fees, and from any and all suits and actions of every name and description that may be brought against the CRA on account of any claims, fees, royalties, or costs for any invention or patent, and from any and all suits and actions that may be brought against the CRA for the infringement of any and all patents or patent rights claimed by any person, firm, or corporation.

9. **PUBLIC ENTITY CRIMES:** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as an CONSULTANT, supplier, subcontractor, or consultant

under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO (Currently \$25,000) for a period of 36 months from the date of being placed on the convicted vendor list.

10. CERTIFICATION AND SCRUTINIZED COMPANY REQUIREMENTS: The CRA shall have the option to terminate this agreement/contract if CONSULTANT:

- A. Is found to have submitted a false certification as provided under section 287.135 (5) Florida Statutes;
- B. Has been placed on the Scrutinized Companies that Boycott Israel List;
- C. 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
- D. Has been engaged in business operations in Cuba or Syria.

11. 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 administered 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.

12. PROHIBITION OF CONTINGENT FEES: The CONSULTANT warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement. For the breach or violation of this provision, the CRA shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration pursuant to section 287.055(6), Florida Statutes.

13. 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: Jeff Costello, 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 No. (561) 276-9400
Facsimile No. (954) 771-4923

For CONSULTANT: Jonathan Haigh, PLA
Kimley-Horn & Associates, Inc.
1920 Wekiva Way, Suite 200
West Palm Beach, FL 33411
Telephone No. (561) 845-0665
Facsimile No. (561) 863-8175

14. **DEFAULT:** In the event the CONSULTANT fails to comply with the provisions of this Agreement, the CRA may declare the CONSULTANT 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 CONSULTANT 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 CONSULTANT in the event of default, shall be determined by deducting any additional costs, charges and/or damages incurred by the CRA due to the CONSULTANT'S default.

15. **WARRANTY:** CONSULTANT warrants that its services are to be performed within the limits prescribed by the CRA with the usual thoroughness and in conformance with all applicable professional landscape architectural standards.

16. **MISCELLANEOUS:**

- A. **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.
- B. **Law Governing:** This Agreement shall be governed by and construed in accordance with the Laws of the State of Florida.

- C. Venue for litigation concerning this Agreement shall be in Palm Beach County, Florida.
- D. 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.

17. PUBLIC RECORDS: CONSULTANT shall comply with the applicable provisions of Chapter 119, Florida Statutes. Specifically, CONSULTANT shall:

- A. Keep and maintain public records required by the CRA to perform the service.
- 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 contract term and following completion of the contract if the CONSULTANT does not transfer the records to the CRA.
- D. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the CONSULTANT 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 CONSULTANT 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 CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT

RENEE JADUSINGH, ESQ.
561-276-8640
JADUSINGHR@MYDELRAYBEACH.COM
20 NORTH SWINTON AVENUE
DELRAY BEACH, FLORIDA 33444

18. 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.

19. This Agreement shall not be valid until signed by the CRA Chair.

(SIGNATURE PAGES TO FOLLOW.)

IN WITNESS WHEREOF, the DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY Board of Commissioners has made and executed this Agreement on behalf of the CRA and CONSULTANT has hereunto set its hand the day and year written above.

DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY

By: 
Shelly Petrolia, Chair

ATTEST:


Jeff Costello, Secretary

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


General Counsel

ATTEST:

Secretary

CONSULTANT:

KIMLEY-HORN AND ASSOCIATES, INC.

BY:

Print Name: CHRISTOPHER W. HEGGEN

Title: VICE PRESIDENT

STATE OF FLORIDA

COUNTY OF PALM BEACH

)
)SS:
)

The foregoing instrument was acknowledged before me this 17th day of OCTOBER, 2018, by Christopher Heggen, as Vice President (name of officer or agent, title of officer or agent), of Kimley-Horn + Associates (name of corporation acknowledging), a North Carolina (state or place of incorporation) corporation, on behalf of the corporation. He is personally known to me or has produced (type of identification) as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 17th day of OCTOBER, 2018.

NOTARY PUBLIC

My Commission Expires:

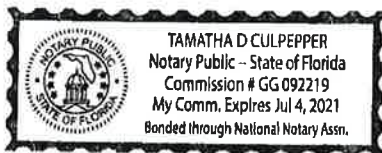


EXHIBIT "A"
HOURLY SERVICES

October 2018

Kimley-Horn and Associates, Inc.

<u>Staff Title</u>	<u>Hourly Rate</u>
Sr. Landscape Architect	\$175.00
Landscape Architect	\$140.00
Landscape Architecture Analyst	\$110.00
Landscape CADD Technician	\$90.00
Construction Inspector	\$130.00
Clerical/ Admin	\$75.00

Copies

Black & White (24" x 36")	<u>\$2.30</u>
Color (24" x 36")	<u>\$2.30</u>
Black & White (8½" x 11" & 11" x 17")	\$ no charge (*)
Color (8 ½" x 11" & 11" x 17")	\$ no charge (*)

Note: (*) Incidental in house 8½" and 11" copies will not be charged. Large orders will be sent to outside copy center and cost charged as a direct reimbursable expense to Client.

No Mileage Will be Charged on Any Project

EXHIBIT "B"
SAMPLE
CONSULTING WORK ASSIGNMENT

WORK ASSIGNMENT
BETWEEN

THE DELRAY BEACH
COMMUNITY REDEVELOPMENT AGENCY

AND

CONSULTANT NAME

This Consulting Work Assignment is entered into this ____ day of ____, 201__, by and between the **DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY**, hereinafter referred to as "CRA" and **CONSULTANT NAME** hereinafter referred to as "CONSULTANT".

W I T N E S S E T H:

WHEREAS, the CRA and the CONSULTANT previously entered into an Agreement for Professional Contracting Services dated ____, 201__, the "Original Agreement"); and

WHEREAS, the CRA and the CONSULTANT are authorized to enter into Work Assignments in order to provide for additional services to be provided by the CONSULTANT for the CRA, pursuant to the Original Agreement; and

WHEREAS, the CRA and the CONSULTANT desire to enter into this Work Assignment in order to provide for the CONSULTANT to provide additional services pursuant to the Original Agreement, except a modified herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the CRA and the CONSULTANT agree as follows:

1. The "WHEREAS" clauses recited above are hereby incorporated herein by reference.

2. The CRA authorizes the CONSULTANT to perform additional services as provided in this Work Assignment for the following CRA Project:

NAME OF PROJECT

3. The Scope of Services for the Project, as provided in the Original Agreement, is hereby amended in order to authorize the CONSULTANT to provide the

Scope of Services as described on **Exhibit "A"**, to this Work Assignment, which is attached hereto and incorporated herein by reference.

4. The Budget for the Project as stated in the Original Agreement is hereby amended to reflect the adjustments indicated on **Exhibit "A"**, to this Work Assignment, which is attached hereto and incorporated herein by reference.

5. The Completion Date for the Project as stated in the Original Agreement is hereby amended to provide for the CONSULTANT to complete the Scope of Services described in **Exhibit "A"** to this Work Assignment, which is attached hereto and incorporated herein by reference, no later than ____ days (exclusive of construction) after the CRA executes this Work Assignment, with extensions as approved by the CRA.

6. This Work Assignment is approved contingent upon the CRA's acceptance of and satisfaction with the completion of the services rendered in the previous phase or as encompassed in the Original Agreement, as may have been amended by any prior Work Assignments entered into between the CRA and the CONTRACTOR. If the CRA, in its sole discretion, is unsatisfied with the services provided in the previous phase, or prior Work Assignment, the CRA may terminate the Original Agreement without incurring any further liability.

7. The CONSULTANT may not commence work on any Work Assignment, including this Work Assignment, as approved by the CRA, without a further notice to proceed issued in writing by the CRA Executive Director, or her authorized representative.

8. The Original Agreement, as may have been modified by prior Work Assignments, and except as modified herein, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Work Assignment as of the day and year indicated above.

ATTEST:

**DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY**

By: _____
Jeff Costello, Executive Director

BY: _____
Shelly Petrolia, Chair

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

General Counsel

CONSULTANT:

By: _____
(Signature)

(Print Name and Title)

Attest:

Secretary

(CORPORATE SEAL)

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

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared _____ as _____ of _____ named in the foregoing agreement and that he/she acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him/her by said _____ and that the Corporate seal affixed thereto is the true corporate seal of said Corporation.

Witness my hand and official seal in the County and State last aforesaid this _____ day of _____, 201__.

NOTARY PUBLIC

Printed Name

My Commission Expires:

EXHIBIT "A"

"NAME OF PROJECT"

I. PROJECT DESCRIPTION

- 1.1 The project is located in Delray Beach, Florida
- 1.2 Additional Professionals working on the project under contract to the CONSULTANT include:

II. SCOPE OF SERVICES

PART I –Design Development

PART II – Construction Documents

PART III – Permitting

PART IV - Bidding Assistance and Construction Services

PART V – Additional Services

III. BUDGET

IV. COMPLETION DATE