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# VILLAGE OF KEY BISCAYNE

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## Office of the Village Manager

*Village Council*  
Robert L. Vernon, *Mayor*  
Jorge E. Mendia, *Vice Mayor*  
Michael Davey  
Enrique Garcia  
Steve Liedman  
Thomas Thornton  
Patricia Weinman

*Village Manager*  
Genaro "Chip" Iglesias

**DT:** February 5, 2008

**TO:** Honorable Mayor and Council Members

**FR:** Genaro "Chip" Iglesias, Village Manager

**RE:** **AGREEMENT FOR PROFESSIONAL  
ARCHITECTURAL SERVICES FOR  
KEY BISCAYNE COMMUNITY  
CENTER PHASE II**

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### RECOMMENDATION

It is recommended that the Village Council obtain the professional services of Currie Sowards Aguila Architects for architectural and related service for the Community Center Phase II project as described in the attached agreement. This architectural service fee set forth in this agreement is \$90,900.

### BACKGROUND

Currie Sowards Aguila Architects, formally known as Robert Currie Partnership, Inc., are the original architect firm hired by the Village for the design of the Community Center. The original design of the Community Center envisioned that it may be necessary to expand the Community Center to meet the needs of the community.

The Community Center Advisory Board, Staff and the Village's Owners Representative have recommended that this firm's contract with the Village should be amended to include the Community Center Phase II design. On January 24, 2008 the Community Center Advisory Board passed a unanimous motion recommending that the contract should be amended to provide for the services described in the attached agreement .

The professional service to be provided by this agreement will address the following three (3) issues:

1. The addition of a stand alone elevator on the east side of the building to service the first and second floor of the Community Center.

2. The addition of approximately 4,500 square feet to the second floor of the community center.
3. Modifications to the existing sanitary grinder pump.

The addition of a second elevator, expansion of the second floor and modifications to the sanitary pump will address the three of the most significant issues faced by Community Center.

The services set forth in this agreement will be funded by the "Community Center 2<sup>nd</sup> Floor Plans" and "Community Center 2<sup>nd</sup> Elevator" line items in the Capital Improvement Fund. The balance in each of the funds is \$155,000 for a total of \$310,000.

**RESOLUTION NO. 2008-**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING PROFESSIONAL SERVICES AGREEMENT BETWEEN THE VILLAGE OF KEY BISCAYNE AND CURRIE SOWARDS AGUILA ARCHITECTS, CONCERNING COMMUNITY CENTER PHASE II PROJECT; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Village Council desires to obtain the professional services of Currie Sowards Aguila Architects (the "Architect") concerning the provision of architectural and related services for the Community Center Phase II project; and

**WHEREAS**, the Village Council finds that approval of the attached Supplement to Village of Key Biscayne Agreement for Professional Architectural Services for Village of Key Biscayne Community Center Phase II (the "Phase II Agreement") between Architect and the Village is in the best interest of the Village.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Adopted.** That each of the recitals stated above is hereby adopted and confirmed.

**Section 2. Agreement Approved.** That the Phase II Agreement, in substantially the form attached hereto, is hereby approved, and the Village Manager and Village Clerk are authorized, in their respective capacities, to execute the Agreement on behalf of the Village, once approved by the Village Attorney as to form and legal sufficiency.

**Section 3. Implementation.**

A. That the Village Manager is hereby authorized to take any necessary action to implement the Agreement and this Resolution.

B. That the Village Manager is authorized to act for the Village in regard to the amendment, extension or termination of the Phase II Agreement, except that any cost to the Village of more than \$10,000 above the \$90,900 lump sum fee , which is set forth in the Phase II Agreement, shall require further Village Council authorization.

C. That the funding source for the fees and expenses payable pursuant to the Phase II Agreement shall be as identified in the Village Manager's memorandum which accompanies this Resolution on the Council agenda.

**Section 4. Effective Date.** That this Resolution shall be effective immediately upon adoption hereof.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
MAYOR ROBERT L. VERNON

ATTEST:

\_\_\_\_\_  
CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
VILLAGE ATTORNEY

**CURRIE SOWARDS AGUILA ARCHITECTS**  
**Village of Key Biscayne Recreation Center**  
**EXHIBIT "A"**  
**AGREEMENT FOR PROFESSIONAL SERVICES**  
**December 19, 2007**

PROFESSIONAL SERVICES	INCLUDED		COMMENTS
	YES	NO	
<b>PRE-DESIGN SERVICES</b>			
ABANDONEMENTS		X	
ACOUSTICAL ANALYSIS		X	
ASBESTOS STUDY		X	
BOUNDARY SURVEYS		X	Client to provide updated survey
COASTAL CONSTRUCTION PERMITTING		X	
CONDITIONAL USE		X	
ENVIRONMENTAL IMPACT ANALYSIS		X	
EXISTING BUILDING SURVEYS		X	AE to rely on previous construction documents
LYFE CYCLE COST ANALYSIS		X	
PHOTOGRAPHY		X	
PROGRAMMING	X		
RENDERINGS		X	
REZONING		X	
SCHEDULING		X	
SITE PLAN APPROVAL		X	
SOIL REPORTS/RECOMMENDATIONS		X	Client to provide new geotechnical for structural design requirements
TOPOGRAPHIC SURVEY		X	
TREE SURVEY		X	
<b>SCHEMATIC DESIGN/DESIGN DEVELOPMENT SERVICES</b>			
CONCEPTUAL DESIGN	X		
INTERIOR DESIGN		X	
KITCHEN DESIGN		X	
MODELS		X	
COLORED PLANS/ELEVATIONS/SITEPLAN	X		As needed for presentation to public and Council
<b>CONSTRUCTION DOCUMENT SERVICES</b>			
CIVIL ENGINEERING		X	Client to provide as-built data for tie-in requirements
CONSTRUCTION DOCUMENTS	X		
COST REPORT		X	
ELECTRICAL ENGINEERING	X		
ENERGY CALCULATIONS	X		
FIRE PROTECTION DESIGN	X		
FURNITURE, FIXTURE & EQUIPMENT SELECTION		X	
IRRIGATION DESIGN		X	
LANDSCAPE ARCHITECTURE		X	
MECHANICAL ENGINEERING	X		
PLUMBING ENGINEERING	X		
SPECIFICATIONS	X		
STRUCTURAL ENGINEERING	X		
<b>BIDDING SERVICES</b>			
BIDDING EVALUATIONS & RECOMMENDATIONS		X	Assumes CM @ Risk selected by Client
CONTRACTOR SELECTION		X	
<b>CONSTRUCTION ADMINISTRATION SERVICES</b>			
CONSTRUCTION ADMINISTRATION		X	To be provided as an additional service
PAYMENT APPLICATION REVIEW		X	Provided as part of CA
PUNCH LIST / CLOSE-OUT		X	Provided as part of CA
SHOP DRAWING REVIEW		X	Provided as part of CA
<b>ADDITIONAL SERVICES</b>			
POST OCCUPANCY EVALUATION		X	
WARRANTY SURVEY		X	

**SUPPLEMENT TO VILLAGE OF KEY BISCAIYNE  
AGREEMENT FOR PROFESSIONAL ARCHITECTURAL  
SERVICES FOR VILLAGE OF KEY BISCAIYNE COMMUNITY  
CENTER PHASE II**

This Agreement is made and entered into this 12th day of February, 2008, by and between the Village of Key Biscayne (the "Village") and Currie Sowards Aguila Architects, formerly known as Robert G. Currie Partnership, Inc., professional architects, (the "Architect").

**WHEREAS**, the Village and Architect have previously entered into an Agreement of August 26, 1998, as a Continuing Contract under Sec. 287.055, F.S., which remains in effect, and have subsequently entered into an Agreement of October 11, 2000, as revised by Agreement of August 27, 2002, as amended by Agreement of May 11, 2004, (collectively, the "Agreement") concerning the design of the Village of Key Biscayne Recreation Center (the "Community Center"); and

**WHEREAS**, during the course of the initial design and construction of the Community Center it was envisioned that an expansion of the building may be subsequently necessary to meet additional recreational service needs of the community; and

**WHEREAS**, it is necessary to design a proposed modification and expansion of the Community Center (the "Project"), as described herein, in order for the Village to be able to meet the need for additional program services at the Community Center; and

**WHEREAS**, the Village Manager and the Village's Owner's Representative have recommended that the Agreement be further amended, as provided herein in this Supplement to Village of Key Biscayne Agreement for Professional Architectural Services for Village of

Key Biscayne Community Center Phase II (the “Phase II Agreement”), so that the Community Center improvements, consisting of the facility expansion and modification which is described in this Phase II Agreement, may be designed; and

**WHEREAS**, Architect hereby confirms that it is ready, willing and able to perform the services required by this Phase II Agreement.

**IN CONSIDERATION OF THE MUTUAL COVENANTS SET FORTH IN THIS PHASE II AGREEMENT, THE PARTIES AGREE, AS FOLLOWS:**

**I. DESCRIPTION OF PROFESSIONAL SERVICES**

- 1.1 The services to be provided by the Architect generally consist of three elements, as follows:
  - A. Addition of a stand alone two-landing elevator on the east side of the existing facility.
  - B. Addition to the south side of the existing facility on the second floor consisting of approximately 4,500 square feet of function spaces with egress stairs.
  - C. Modifications to the existing sanitary grinder pump related to vandalism and improper use.
- 1.2 The services shall be provided pursuant to a schedule which is approved by the Village Manager.
- 1.3 Professional services are intended to include architectural, structural, mechanical, plumbing, electrical, fire protection, and fire alarm services. Civil engineering and landscaping and irrigation as well as interior design are not included in this description of the services to be provided. Those services which are included will be provided through the bidding and permitting elements, with construction administration to be subsequently included as an additional service, if authorized by the Village at a later time.
- 1.4 Site Plan Approval services are not included in this description of the services to be provided, but may be added if requested by the Village and will be performed at the Architect’s current hourly rates as set forth in Article 4.2 below. Meetings by the Architect during programming and schematic design will be limited to a

maximum of four times with staff and/or advisory boards and two times with Council for a total maximum of six meetings. Additional meetings at which the attendance of the Architect is required by the Village will be considered an additional expense under Article 4. However, the Architect shall confer as necessary with the Village's Owner's Representative, Skyline Management Services, Inc., as often as reasonably necessary without additional cost to the Village.

1.5 The services to be provided by the Architect will include the following elements:

- A. Programming
- B. Schematic design
- C. Design development
- D. Construction documents
- E. Permitting assistance / coordination

1.6 The following items are not a part of the services to be provided under this Phase II Agreement, but may be added by the Village for an additional fee, pursuant to Article 4:

- A. Site Plan Approval services
- B. Interior design, other than base interior finishes
- C. Survey - boundary, tree, topographic, etc.
- D. Soil borings & recommendation
- E. Environmental abatement
- F. Renderings
- G. Models
- H. Construction administration
- I. Threshold inspections
- J. Cost estimates

1.7 The included and/or excluded services are noted on Exhibit "A," attached hereto.

## **II. ITEMS TO BE PROVIDED BY VILLAGE**

2.1 Unless stated otherwise in this Phase II Agreement, the Village shall provide copies of all tests, inspections, and reports required to complete the services, such as environmental surveys, structural analysis, mechanical reports, or hazardous materials and/or other existing conditions reports.

2.2 The Village shall provide the Architect with a correct legal description and accurate certified property survey of the site indicating grades, trees, boundary information, easements, location of existing buildings or other structures, utilities, and other site conditions affecting the proposed improvements.

- 2.3 The Village shall provide the Architect with a geotechnical analysis (soils report) and certified engineers recommendation for use in the design of the structure, if applicable.
- 2.4 The Village shall provide the Architect with percolation tests and analysis for use in the design of the drainage requirements as required by code, if applicable.
- 2.5 The Village shall provide the Architect with a set of drawings representative of existing conditions to be used as a basis of the services required, if needed by the Architect.
- 2.6 The Architect shall be entitled to rely on the accuracy and completeness of the information provided by the Village, without independent verification of same.

### III. FEES AND EXPENSES

- 3.1 Professional fees for the services described in Article 1 of this Agreement shall be a **lump sum** fee as follows:
  - A. Elevator addition \$ 12,500.00
  - B. South 2nd Fl. Add. \$ 76,300.00 (excludes construction administration)
  - C. Grinder pump \$ 2,100.00
- 3.2 A **retainer** in the amount of **\$4,500.00** will be required, upon execution of this Phase II Agreement, in order for the Architect to begin work. The retainer portion of the fee will be applied to the **final invoice**.
- 3.3 Direct project expenses (reimbursable expenses) are **in addition to** compensation described in Article 3.1 above and include actual authorized expenditures reasonably made by the Architect or its authorized consultants in the interest of the Project, as follows:
  - A. Reproductions at cost plus ten (10%) percent.
  - B. In-house black and white plotting at the rate of \$1.15 per sheet
  - C. In-house color plotting at the rate of \$36.00 per sheet
  - D. Mail, shipping and courier service at cost plus ten (10%) percent.
  - E. Automobile travel when traveling beyond 50 miles of the Architect's office, at the rate of \$0.40 per mile, plus tolls if applicable.
  - F. Permit fees or agency review fees.
- 3.4 Payment on account of services rendered, including direct project expenses incurred, shall be made monthly upon presentation of the Architects invoice of

professional services. Should any portion of the invoice be in dispute, all other portions shall be paid per the terms of this Phase II Agreement. Any billing concerns shall be submitted in writing by the Village to the Architect describing the disputed portion of the invoice in detail for discussion and resolution. If the Village fails to provide written objections to the invoice within fifteen (15) days of invoice date, it will be deemed that there are no objections, or that objections are waived.

- 3.5 Payment on account of the Architects services, as well as any direct project expenses, shall be made within thirty (30) days of invoice date for services rendered and/or expenses incurred.
- 3.6 Payments due the Architect and unpaid past sixty (60) days shall bear interest at the rate of one (1 %) percent per month for unpaid portions of the invoice for the work.
- 3.7 This Article shall be governed by the Local Government Prompt Payment Act, Sec. 218.70, F.S., et seq.

#### **IV. CHANGE IN SERVICES**

- 4.1 Change in the services to be performed by the Architect or the Architects consultants, may be accomplished after execution of this Phase II Agreement, without invalidating the Phase II Agreement, by mutual agreement and execution of a written Change in Services Authorization.
- 4.2 Any change in services shall be invoiced at an agreed to Lump Sum Fee for the work described, or in the absence of an established lump sum fee, the current fee structure shall apply. The Architect's current hourly rates are as follows:
  - A. Principal Architect \$200.00
  - B. Project Architect \$175.00
  - C. Project Manager \$150.00
  - D. CADD Technician I \$ 85.00
  - E. CADD Technician II \$ 65.00
  - F. Support Staff \$ 45.00
- 4.3 If any of the following circumstances affect the Architect's services for the Project, the Architect shall be entitled to an appropriate adjustment in the Architect's schedule and compensation.
  - A. Village change in instruction or approval which requires revisions to completed services;
  - B. Changes or revisions in code, laws regulations or official interpretations

- which necessitate changes to completed services;
- C. Decisions or direction required by the Village not clearly or completely transmitted to the Architect in a timely manner;
- D. Significant change in the Project including, but not limited to, size, quality, complexity, the Village's schedule or budget;
- E. Failure of performance on the part of the Village or the Village's consultants;
- F. Preparation for and attendance at dispute resolution proceedings or a legal proceeding on behalf of the Village except where the Architect is a party thereto.

## **V. OWNERSHIP OF DOCUMENTS**

- 5.1 Drawings, specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service for use solely with respect to this Project. The Architect and the Architect's consultant shall be deemed the authors of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights, subject to Village's use and enjoyment for the purposes of this Project only.
- 5.2 Upon execution of this Agreement, the Village shall have the right to reproduce the Architect's Instrument of Service solely for the purpose of constructing, using and maintaining the Project, provided that the Village shall comply with all obligations, including payment of all sums when due, under this Phase II Agreement.
- 5.3 The Village shall not use the Instruments of Service for future additions or alterations to this Project or other projects, unless the Village obtains the prior written agreement of the Architect and the Architect's consultants, as applicable. Any unauthorized use of the Instruments of Service shall be at the Village's sole risk and without liability to the Architect and the Architect's consultant.

## **VI. TERMINATION OR SUSPENSION**

- 6.1 If the Village fails to make payment for services or otherwise materially defaults under the terms of this Agreement, the Architect at its option, may declare this Agreement in default and may either terminate the Agreement or suspend the work. If the Architect elects to terminate this Agreement, the Architect shall provide the Village with written notice of termination as stipulated herein.
- 6.2 Either party may terminate this Agreement for cause upon seven (7) days written notice. The party initiating the termination notice must provide the other with a

reasonable opportunity to cure, but in no event more than ten (10) calendar days from receipt of written notice.

- 6.3 The Village may terminate the services of the Architect without cause upon seven day written notice of termination. In the event of termination without cause, the Architect shall be compensated for all services rendered through the date of receipt of written termination notice in accordance with the terms of this Agreement.
- 6.4 The Architect may terminate professional Services with the Village, without cause, upon no less than forty-five (45) days written notice.

## **VII. MISCELLANEOUS PROVISIONS**

- 7.1 The recitals set forth in the preamble to this Phase II Agreement are hereby adopted and confirmed.
- 7.2 The term of this Agreement shall commence on February 12, 2008 and shall terminate upon completion of the services of the Architect, unless sooner terminated pursuant to Article 6 or extended by mutual written agreement of the parties.
- 7.3 In an effort to resolve any conflicts that arise during the design and construction of the Project, or following the completion of the Project, the Village and the Architect agree that all disputes between them arising out of or relating to this Phase II Agreement or the Project shall be submitted to non-binding mediation unless the parties mutually agree otherwise. The Village and the Architect further agree to include a similar mediation provision in all agreements with independent contractors or consultants hereafter retained for the project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with their subcontractors, thereby providing for non-binding mediation as the primary initial method for dispute resolution between the parties to all agreements concerning the Project.
- 7.4 This Phase II Agreement shall be governed by the laws of the State of Florida. Venue for any litigation between the Architect and the Village shall take place in Miami-Dade County, Florida. The parties hereby voluntarily waive any right to trial by jury in any litigation between the parties which in any way arises out of this Phase II Agreement or the relationship between the parties.
- 7.5 Delays: The Village agrees that the Architect is not responsible for damages arising directly or indirectly from any delays for causes beyond the Architect's control. For purposes of this Phase II Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other

natural disasters; fires; riots; war or other emergencies or acts of God; failure of any governmental agency to act in a timely manner; failure of performance by the Village or the Village's consultants; or discovery of any hazardous substances or differing site conditions. In addition, if the delays resulting from such causes increase the cost or time required by the Architect to perform its services in an orderly and efficient manner, the Architect shall be entitled to an equitable adjustment in schedule and/or compensation.

- 7.6 Upon execution of this Agreement, the Village agrees to allow the Architect the right to photograph the completed Project and to publish photos in the promotion of the Architect's practice through advertising, public relations, brochures, award competitions, or other marketing materials desired by the Architect. The material used by the Architect shall not have any confidential or proprietary information released if the Village has previously advised the Architect not to divulge said information.
- 7.7 This written Phase II Agreement (together with the Continuing Contract) represents the entire and integrated Agreement between the Client and the Architect and supersedes all prior negotiations or agreements, either written or oral. This Phase II Agreement may be amended only if agreed to by both parties, in writing.
- 7.8 This Phase II Agreement is deemed effective only upon execution by both parties. If full execution is not accomplished within forty-five (45) days from the date indicated on page one of this document, the offer set forth by tendering a signed copy of this Agreement shall be null and void.
- 7.9 Any term or provision of this Phase II Agreement found to be invalid under any applicable Statute or rule of law shall be deemed omitted, and the remainder of this Phase II Agreement shall remain in full force and effect.
- 7.10 This Phase II Agreement may be executed in counterparts. A signed fax copy of this Phase II Agreement shall be valid as an original.
- 7.11 The Architect shall at all times carry professional liability insurance, workers' compensation insurance (if applicable), comprehensive general liability insurance, and automotive liability insurance, with minimum policy limits for each coverage in the amount of at least Five Hundred Thousand (\$500,000.00) Dollars per occurrence, combined single limit, for property damage and bodily injury, including death, except that the dollar amount of workers compensation coverage (if applicable) shall be as provided by Chapter 440, Fla. Stat. The Village shall be named as an additional insured on the comprehensive general and automotive liability insurance policies, to the extent permitted by law. Each insurance policy shall state that it is not subject to cancellation or reduction in

coverage without written notice to the Village 30 days prior to the effective date of cancellation or reduction of coverage.

7.12 Architect shall indemnify and hold harmless the Village , its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentional wrongful conduct of the Architect and persons employed or utilized by the Architect in the performance of the Phase II Agreement.

#### 7.13 NOTICES

All notices and communications to the Village or Architect shall be in writing and shall be deemed to have been properly given if transmitted by registered or certified mail or hand delivery. All notices and communications shall be effective upon receipt. Notices shall be addressed as follows:

Village: Genaro "Chip" Inglesias  
Village Manager  
Village of Key Biscayne  
88 West McIntyre Street  
Key Biscayne, FL 33149

With a copy to: Stephen Helfman and David M. Wolpin  
Village Attorneys  
c/o Weiss Serota Helfman  
2525 Ponce De Leon Blvd.  
Suite 700  
Coral Gables, Florida 33134

With a copy to Skyline: Skyline Management Group, Inc.  
4040 NE 2nd Ave., Suite 305  
Miami, Florida 33137

Architect: Currie Sowards Aguila Architects  
134 NE 1st Avenue  
Delray Beach, Florida 33444

**IN WITNESS WHEREOF**, the parties hereto have accepted, made and executed this Phase II Agreement upon the terms and conditions above stated, on the day and year first above written.

CONSULTANT:

CURRIE SOWARDS AGUILA ARCHITECTS  
134 Northeast First Avenue  
Delray Beach, FL 33444

By: \_\_\_\_\_  
Name: Jose N. Aguila,  
Title: Principal

VILLAGE:

VILLAGE of KEY BISCAYNE  
88 West McIntyre Street  
Key Biscayne, FL 33149

By: \_\_\_\_\_  
Genaro "Chip" Inglesias  
Village Manager

Attest: \_\_\_\_\_  
Village Clerk

AS TO LEGAL FORM AND LEGAL  
SUFFICIENCY

\_\_\_\_\_  
Village Attorney

RECOMMENDED BY:

\_\_\_\_\_  
Paul Abbott  
Skyline Management Services, Inc.  
Owner's Representative