

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT ("Agreement"), is made and entered into this _____ day of April, 2018, by and between the

CITY OF POMPANO BEACH, a municipal corporation organized under the laws of the State of Florida, whose address is 100 West Atlantic Boulevard, Pompano Beach, Florida 33060 ("CITY")

and

POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY, a body politic and corporate of the State of Florida and a community redevelopment agency created pursuant to Chapter 163, Part III Florida Statutes, whose address is 100 West Atlantic Boulevard, Pompano Beach, Florida 33060 ("CRA").

WHEREAS, the City Commission of the CITY has, pursuant to Part III, Chapter 163, Florida Statutes ("Redevelopment Act") created a Community Redevelopment Agency for the public purpose of carrying out redevelopment in community redevelopment areas located in the CITY; and

WHEREAS, the CRA is the defendant in that certain litigation styled: Vicente Thrower v. Pompano Beach Community Redevelopment Agency, Case No. 16-012620, Seventeenth Judicial Circuit, Broward County, Florida (the Thrower Litigation), by which Mr. Thrower is seeking reimbursement of \$483,000 in attorneys' fees and costs (the Fees) incurred in defending a prior criminal prosecution alleging unlawful compensation by a public official and bribery for which Mr. Thrower was acquitted; and

WHEREAS, in the litigation, Mr. Thrower asserted that he was criminally prosecuted and incurred the Fees due to his voluntary service as a member of the NWCRA Advisory Committee; the CRA defended the litigation on a good faith belief that there was a legal and factual basis to decline reimbursement of the Fees; and

WHEREAS, the outcome of the Thrower Litigation is uncertain; and

WHEREAS, both the CRA and the CITY recognize the importance of encouraging public service and protecting their volunteers who serve on advisory committees from personal financial jeopardy; and

WHEREAS, the CRA is constrained by the restrictions placed on the Redevelopment Trust Fund to reimburse the Fees without a judicial determination; and

WHEREAS, the CITY believes it is in the best interest of the CRA and the CITY to amicably settle the Thrower Litigation without such judicial determination; and

WHEREAS, the CITY is willing to reimburse the Fees in the Thrower Litigation for the public purpose of encouraging public service and protecting current and future volunteers who serve on advisory committees from personal financial jeopardy and to ensure continued participation of all City residents.

NOW, THEREFORE, in consideration of the mutual promises and conditions contained in this Agreement and other good and valuable consideration, the receipt of which is hereby acknowledged, the CITY and CRA agree as follows.

ARTICLE 1 RECITALS INCORPORATED

The recitals set forth in the "Whereas" clauses above are hereby accepted by the parties and incorporated into this Agreement.

ARTICLE 2 CRA DUTIES

The CRA will enter into a settlement agreement with Mr. Thrower which shall provide for the voluntary dismissal of the Thrower Litigation with prejudice upon receipt of payment by the CITY of \$265,000 in full and complete settlement of all claims for reimbursement of the Fees.

ARTICLE 3 CITY DUTIES

The CITY will reimburse the Fees in the amount of \$265,000 upon receipt of a fully executed settlement agreement which provides for the voluntary dismissal of the Thrower Litigation with prejudice and acceptance of the amount of \$265,000 as full and complete settlement of all claims for reimbursement of the Fees.

ARTICLE 4 PLEDGE OF COOPERATION

The parties recognize it will be necessary for both CITY and CRA staff to work closely and coordinate with each other in order to effectuate the intent of this Agreement. Therefore, each party pledges said cooperation.

ARTICLE 5 TERM

This Agreement shall take effect as provided in Article 16 of this Agreement and continue in effect until the Thrower Litigation has been dismissed with prejudice. The parties may amend this Agreement by mutual agreement in writing.

If the term of this Agreement extends beyond a single fiscal year of the CITY and CRA, the continuation of this Agreement beyond the end of any fiscal year shall be subject to both the appropriation and the availability of funds in accordance with Chapter 163, Florida Statutes for CRA and Chapter 166, Florida Statutes for CITY.

ARTICLE 6 GOVERNMENTAL IMMUNITY

Nothing herein is intended to serve as a waiver of sovereign immunity by any party nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. Both parties are state agencies or political subdivisions as defined in Chapter 768.28, Florida Statutes, and agree to be fully responsible for the acts and omissions of its respective agents or employees to the extent permitted by law.

ARTICLE 7 INDEPENDENT CONTRACTOR

The CITY and the CRA are separate legal entities and for purposes of this Agreement, each is an independent contractor under this Agreement. Services provided by each party pursuant to this Agreement shall be subject to the supervision of that party. In providing such Services, each party, its respective officers, employees, or agents are not authorized to and shall not act as officers, employees or agents of the other party. Neither party extends to the other party or its respective agents any authority of any kind to bind it in any respect whatsoever.

ARTICLE 8 ASSIGNMENT

This Agreement, or any interest therein is not assignable and both the CITY and CRA agree not to assign, transfer, merge or otherwise convey any of their respective interest, right, or obligation under this Agreement, in whole or in part, to any other person, corporation or entity without the prior written consent of the other party

ARTICLE 9 AMENDMENTS

Both parties agree that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document agreed to and executed by both parties.

ARTICLE 10 NOTICE

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by registered United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it has been changed by written notice in compliance with the provisions of this

paragraph. For the present, the parties designate the following as the respective addresses for giving of notice.

For CRA:

Executive Director
Pompano Beach CRA
P.O. Box Drawer 1300
Pompano Beach, FL 33061

For CITY:

City Manager
City of Pompano Beach
100 W. Atlantic Blvd.
Pompano Beach, FL 33060

With a copy to:

CRA Attorney
Pompano Beach CRA
100 W. Atlantic Blvd.
Pompano Beach, FL 33060

With a copy to:

City Attorney
City of Pompano Beach
100 W. Atlantic Blvd.
Pompano Beach, FL 33060

**ARTICLE 11
BINDING AUTHORITY**

Each person signing this Agreement warrants that he or she has full legal authority to execute this Agreement on behalf of either party and to bind and obligate such party with respect to all provisions contained in this Agreement.

**ARTICLE 12
SEVERABILITY**

Should any provision of this Agreement or the application of such provisions be rendered or declared invalid by a court action or by reason or any existing or subsequently enacted legislation, the remaining parts of provisions of this Agreement shall remain in full force and effect.

**ARTICLE 13
GOVERNING LAW**

This Agreement shall be governed by the laws of the State of Florida with venue lying in Broward County, Florida. By entering into this Agreement, CITY and CRA hereby expressly waive any rights either party may have to a trial by jury of any civil litigation related to this Agreement.

**ARTICLE 14
ENTIRE AGREEMENT**

This Agreement embodies the entire agreement between the parties and supersedes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein. The parties agree there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained herein.

Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

ARTICLE 15 INTERPRETATION

This Agreement shall be interpreted as drafted by both parties hereto equally.

ARTICLE 16 FILING AND EFFECTIVE DATE

This Agreement is an interlocal cooperation agreement entered into pursuant to Section 163.01, Florida Statutes. It shall become effective upon being filed with the Clerk of the Circuit Court of Broward County, Florida, pursuant to Section 163.01(11), Florida Statutes. The City shall be responsible for filing this Agreement with the Clerk of the Circuit Court of Broward County and shall pay for all such recording fees associated with same.

ARTICLE 17 AUDIT RIGHT AND RETENTION OF RECORDS

Each party shall have the right to audit the books, records, and accounts of the other party that are related to this Agreement. CITY and CRA shall keep such books, records and accounts as may be necessary in order to record complete and correct entries related to this Agreement. City and CRA shall preserve and, upon request, make available, at reasonable times for examination and audit by the other party, all financial records, supporting documents and any other records pertinent to this Agreement for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, as may be amended from time to time.

IN WITNESS WHEREOF, the parties have set their hands and seals the date and year first above written.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

"CITY":

Witnesses:

CITY OF POMPANO BEACH

BY: _____
Lamar Fisher, Mayor

BY: _____
Gregory P. Harrison, City Manager

Attest:

Asceleta Hammond, City Clerk

Approved as to Form:

Mark E. Berman, City Attorney

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this _____ day of _____, 2018 by **LAMAR FISHER** as Mayor, **GREGORY P. HARRISON** as City Manager, and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

"CRA":

Signed, Sealed and Witnessed
In the Presence of:

**POMPANO BEACH COMMUNITY
REDEVELOPMENT AGENCY**

Print Name: _____

By: _____
Lamar Fisher, Chairman

Print Name: _____

ATTEST:

Marsha Carmichael, Secretary

EXECUTIVE DIRECTOR:

Print Name: _____

By: _____
Gregory P. Harrison

Print Name: _____

Approved as to Form:

Claudia M. McKenna, CRA Attorney

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by **LAMAR FISHER** as Chairman, **GREGORY P. HARRISON** as Executive Director, and **MARSHA CARMICHAEL** as Secretary of the Pompano Beach Community Redevelopment Agency, who is personally known to me.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

l:agr/cra/2018-732