

## **INFRASTRUCTURE DEVELOPMENT AGREEMENT**

This Infrastructure Development Agreement (“Agreement”) is entered into on \_\_\_\_\_ between Habitat for Humanity of Broward, Inc., a Florida Not For Profit Corporation, having an address of 888 NW 62nd Street, Fort Lauderdale, Florida 33309 (“Contractor”) and the CITY OF POMPANO BEACH, a Florida municipal corporation, having an address of 100 West Atlantic Boulevard, Pompano Beach, Florida 33060 (“City”), hereinafter collectively referred to as the (“Parties”).

### **WITNESSETH**

**WHEREAS**, the City desires to have certain public infrastructure improvements designed, procured, and constructed within City-controlled right-of-way, including the extension of NW 1st Street west to NW 28th Avenue, a sidewalk to be constructed on the south side of the right-of-way, and related underlying utilities, pursuant to plans approved by the City (collectively, the “Public Improvements”); and

**WHEREAS**, Contractor will act as the City’s contractor for purposes of procuring and constructing the Public Improvements, and Contractor shall not acquire any ownership interest in the roadway, sidewalk, right-of-way, or public utilities by virtue of this Agreement; and

**WHEREAS**, the City intends to reimburse Contractor for eligible, documented costs incurred by Contractor in connection with the Public Improvements, subject to the requirements of this Agreement and applicable law;

**NOW, THEREFORE, IN CONSIDERATION** of mutual benefits, the public interest and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **RECITALS.** The foregoing recitations are true and correct and are incorporated herein by reference. All exhibits to this Agreement are hereby deemed a part hereof.

2. **PURPOSE.** The purpose of this Agreement is to set forth the procedures, rights and obligations of the Parties with regard to the design, procurement, construction, completion, inspection/acceptance, and reimbursement of the Public Improvements. This Agreement is intended to be limited to the Public Improvements and the reimbursement contemplated herein.

3. **SCOPE OF WORK.** Contractor shall design (as applicable), permit, and construct the extension of NW 1st Street west to NW 28th Avenue, inclusive of a sidewalk to be constructed on the south side of the right-of-way, underlying utilities (including water, wastewater/sewer, and drainage as required), and any appurtenant items

required by the City-approved plans and permits within the public right-of-way. The intent of the Public Improvements is to ensure that the roadway, sidewalk, and underlying utilities are completed so that adjacent properties can be put into service.

4. **PERMITS AND APPROVALS.** Contractor shall obtain all required permits and approvals for the Public Improvements (including applicable City permits and any required county/state permits), and shall perform the work in accordance with all applicable laws, codes, regulations, and City standards.

5. **PROCUREMENT; COMPETITIVE QUOTES.** Contractor shall follow a procurement process to obtain competitive pricing for the construction of the Public Improvements. At a minimum, Contractor shall obtain three (3) written quotes from qualified, licensed, and insured contractors/subcontractors for the construction scope. Prior to awarding any contract for construction of the Public Improvements, Contractor has provided three quotes and a summary of the intended award to the City for review.

6. **CITY OWNERSHIP; MAINTENANCE; NO CONVEYANCE.** The Parties acknowledge and agree that the roadway/right-of-way, sidewalk, and public utilities associated with the Public Improvements are and shall remain owned by the City (or the applicable public utility owner, as determined by the City). Contractor is acting solely as a contractor to facilitate completion of the Public Improvements and shall not convey, dedicate, or transfer any right-of-way, roadway, sidewalk, or public utility facilities to the City under this Agreement. Following completion and written acceptance of the Public Improvements by the City, the City shall maintain the sidewalk, the roadway, and all utilities that are part of the Public Improvements.

7. **INSPECTION AND ACCEPTANCE.** Upon completion of the Public Improvements, Contractor shall request final inspection(s) and acceptance by the City in accordance with City requirements. Contractor shall provide customary closeout documentation reasonably required by the City, which may include as-builts/record drawings, test results, and contractor/subcontractor warranties to the extent applicable.

8. **REIMBURSEMENT.** Upon completion and written acceptance of the Public Improvements by the City (and subject to any applicable closeout requirements), the City shall reimburse Contractor for eligible and documented costs incurred by Contractor for the Public Improvements, including both hard and soft costs (e.g., construction, engineering, design, surveying, and permitting), to the extent permitted by law and City requirements. Contractor shall provide reasonable supporting documentation requested by the City, including invoices, proof of payment, lien releases (as applicable), and a summary of costs. Contractor has selected Jackson Land Development to complete the work for the contract amount of **Four Hundred Ninety-Seven Thousand, Six Hundred and Seventy Dollars and Zero Cent (\$497,670.00)**. **Engineering by A.J.**

**Hydro Engineering at a contract amount of Forty Seven Thousand Five Hundred Dollars and Zero Cents (\$47,500.00) , and Surveying by Pulice Surveyors at Four Thousand Eight Hundred Dollars and Zero Cent (\$4,800.00). Total anticipated Reimbursement of Five Hundred Forty-Nine Thousand and Seventy Dollars and Zero Cent (\$549,970.00) and in the event of any overages not to exceed 5% of the said total.**

9. **NOTICES.** Any notice or demand under this Agreement must be in writing and given by certified mail (or other method permitted by applicable law and accepted by the Parties) to the addresses set forth below, or to such other address as a Party may from time to time designate by notice.

Procurement & Contracts  
City of Pompano Beach  
100 W. Atlantic Blvd.  
Pompano Beach, Florida 33060  
[purchasing@copbfl.com](mailto:purchasing@copbfl.com)

CONTRACTOR:

Habitat for Humanity of Broward, Inc.  
888 NW 62nd Street  
Fort Lauderdale, Florida 33309  
With a copy to: Nancy Robin, CEO

10. **GOVERNING LAW; VENUE; WAIVER OF TRIAL BY JURY.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any litigation arising from, related to, or in connection with this Agreement shall be in the Seventeenth Judicial Circuit in and for Broward County, Florida, or in the United States District Court for the Southern District of Florida, or United States Bankruptcy Court for the Southern District of Florida, as applicable. BY ENTERING INTO TI-IIS AGREEMENT. THE PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

11. **PUBLIC RECORDS.**

A. The City of Pompano Beach is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law, as amended. Specifically, the Contractor shall:

1. Keep and maintain public records required by the City in order to perform the service.

2. Upon request from the City's custodian of public records, provide the City with a copy of 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 Chapter 119, Florida Statutes or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City.

4. Upon completion of the contract, transfer, at no cost to the City, all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the City's information technology systems.

B. Failure of the Contractor to provide the above-described public records to the City within a reasonable time may subject the Contractor to penalties under 119.10 Florida Statutes, as amended.

## **PUBLIC RECORDS CUSTODIAN**

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

### **CITY CLERK**

**100 W. Atlantic Blvd., Suite 253  
Pompano Beach, Florida 33060  
(954) 786-4611  
[RecordsCustodian@copbtl.com](mailto:RecordsCustodian@copbtl.com)**

12. **ASSIGNMENT**. Either party may assign its rights or obligations under this Agreement without the consent of the other. notwithstanding.

13. **NONEXCLUSIVITY**. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and in addition to every other remedy given herein, now or hereafter existing at law or in equity or by statute or otherwise.

14. **INDEPENDENT CONTRACTOR.** Both the City and the Contractor agree that the Contractor is an independent contractor and not a City employee. City shall not be liable for any wages, salaries, debts, liabilities, or other obligations for Contractor's employees, agents, or other representatives performing obligations of Contractor. Except as otherwise provided, neither party is the agent of the other nor is authorized to act on behalf of the other in any matter.

15. **COMPLIANCE WITH ALL LAWS.** In the conduct of its activities under this Agreement, the Contractor shall comply with all applicable federal and state laws and regulations and all applicable county and city ordinances and regulations, including, but not limited to, compliance with the Americans with Disabilities Act. Ignorance on the Contractor's part shall in no way relieve the Contractor from this responsibility. At its sole expense, the Contractor shall purchase all necessary licenses and permits required by the State of Florida, Broward County, and the City.

16. **ENTIRE AGREEMENT.** This Agreement sets forth the entire agreement between Contractor and City with respect to the subject matter of this Agreement. This Agreement supersedes all prior and contemporaneous negotiations, understandings, and agreements, written or oral, between the parties. This Agreement may not be modified except by the parties' mutual agreement set forth in writing and signed by the parties.

17. **TERM.** This Agreement shall remain in full force and effect until the earlier of: (i) final City acceptance of the Public Improvements and final reimbursement of eligible costs; or (ii) six (6) years from the Effective Date, unless extended by written amendment executed by the Parties.

18. **MODIFICATION.** No modification of this Agreement shall be valid or binding unless such modification is in writing, duly dated, and signed by the Parties hereto.

19. **SEVERABILITY.** The invalidity of any provision hereof shall in no way affect or invalidate the remainder of this Agreement.

20. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same document.

21. **ATTORNEYS' FEES.** Should any Party hereto bring an action against the other to enforce the terms of and provisions hereof, then the Party prevailing in said action shall be entitled to a judgment against the other Party for reasonable attorneys' fees and costs at both the trial and appellate levels.

22. **EFFECTIVE DATE.** This Agreement shall become effective upon execution by both Parties (the "Effective Date").

**(SIGNATURE PAGE FOLLOWS)**

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year hereinabove written.

**CITY OF POMPANO BEACH**

By: \_\_\_\_\_  
REX HARDIN, MAYOR

By: \_\_\_\_\_  
GREGORY P. HARRISON, CITY MANAGER

Attest:

\_\_\_\_\_  
KERVIN ALFRED, CITY CLERK

(SEAL)

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
MARK E. BERMAN, CITY ATTORNEY

Habitat for Humanity of Broward, Inc.

Witnesses:

Shari Ygn

Shari Langrin  
(Print or Type Name)

[Signature]

John Toussaint  
(Print or Type Name)

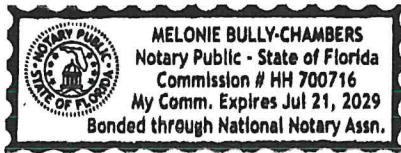
By: [Signature]  
Nancy L. Robin, CEO

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me, by means of  physical presence or  online notarization, this 19 day of May, 2020 by Nancy L. Robin as CEO of Habitat for Humanity of Broward, Inc., a Florida not for profit corporation on behalf of the corporation. He/She is personally known to me or who has produced \_\_\_\_\_  
(type of identification) as identification.

NOTARY'S SEAL:



[Signature]  
NOTARY PUBLIC, STATE OF FLORIDA  
Melonie Bully-Chambers  
(Name of Acknowledger Typed, Printed or Stamped)

HH700716  
Commission Number

MEB/mcm  
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