

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT (“Agreement”), is made and entered into this _____ day of September, 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 owner of the Ali Cultural Arts Center (the Ali) and the Bailey Contemporary Arts Center (the Bailey or BaCA); and

WHEREAS, the CRA is currently providing operation and maintenance services for both the Ali and the Bailey; and

WHEREAS, the CITY is the owner of the Pompano Beach Cultural Center (the Cultural Center) and provides the operation and maintenance for the Cultural Center; and

WHEREAS, both the CRA and the CITY recognize that, while restoration and redevelopment of the historic buildings that house the Ali and the Bailey are eligible CRA activities, the operations of cultural activities are more properly the responsibility of the City; and

WHEREAS, the CRA and the City desire to transfer operations of the cultural activities of the Ali and the Bailey from the CRA to the City.

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 OBLIGATIONS**

The CRA’S obligations are as follows:

A. HISTORIC ALI CULTURAL ARTS CENTER

1. Transfer ownership of the Ali Cultural Arts Center located at 353 Dr. Martin Luther King Jr. Boulevard, which is comprised of a two-story building, outdoor courtyard, parking lot, and a separate 2,300 sq.ft. building shell which is located at 335 Dr. Martin Luther King, Jr. Boulevard, to the City of Pompano Beach. Said transfer shall be by Warranty Deed to the City and shall be final no later than by October 1, 2018.
2. Transfer of all fixed assets including but not limited to furniture, fixtures, sound equipment, instruments and any and all items with Asset registration tags. Said items to be transferred are listed in **Exhibit “A”** which is attached hereto and incorporated herein.
3. Transfer any and all service maintenance contracts and applicable equipment service warranties for any and all fixed assets within the property.
4. Transfer operation of all cultural activities at the Ali Cultural Arts Center to the City as detailed in **Exhibit “B”** “Ali Cultural Arts Program List” attached hereto and incorporated herein.
5. Transfer through an Assignment to the CITY, all existing tenant lease agreements.

B. BAILEY CULTURAL ARTS “BaCA”

1. Transfer operation of any and all cultural activities at the BaCA which property is located at 41 NE 1st Street, to the City as detailed in **Exhibit “C”** “BaCA Program List” attached hereto and incorporated herein no later than by October 1, 2018.
2. Transfer of all Cultural Assets as detailed in **Exhibit “D”** “Cultural Asset List” attached hereto and incorporated herein.

3. Transfer through an Assignment to the CITY, any and all existing contracts of scheduled Exhibits.
4. The CRA shall continue to operate all non-cultural activities at the BaCA, including the leasing of space, and other retail activities.
5. Continue to provide and fund maintenance of the BaCA.
6. Define areas to be leased for commercial activities on an annual basis.
7. The CRA shall maintain the building and all non-cultural equipment.

ARTICLE 3 CITY OBLIGATIONS

The CITY'S obligations are as follows:

1. Accept transfer of ownership of the property on which the Ali Cultural Arts Center is located from the CRA through a Warranty Deed.
2. Conduct and fund operations of all cultural activities at the Ali Cultural Arts Center.
3. Assume responsibility for operation and maintenance of the Ali.
4. Conduct and fund operations of any and all cultural activities at the BaCA in its sole discretion.
5. Limit cultural activities at the BaCA to the areas of non-leasable space which is depicted in the attached floor plan identified as **Exhibit "E"** incorporated herein and attached hereto.

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 so long as the Ali and the Bailey continue operations. 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.

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

Signed, Sealed and Witnessed
In the Presence of:

**POMPANO BEACH COMMUNITY
REDEVELOPMENT AGENCY**

By: _____
Lamar Fisher, Chairman

Print Name: _____

Print Name: _____

ATTEST:

Marsha Carmichael, Secretary

Print Name: _____

EXECUTIVE DIRECTOR:
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 are personally known to me.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number