

BCC Mtg. Date: October 18, 2016

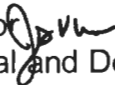


## Interoffice Memorandum

## AGENDA ITEM

September 26, 2016

TO: Mayor Teresa Jacobs  
–AND–  
Board of County Commissioners

FROM: Jon V. Weiss, P.E. Director   
Community, Environmental and Development  
Services Department

**CONTACT PERSON: Mitchell Glasser, Manager  
Housing and Community Development Division  
407-836-5190**

SUBJECT: October 18, 2016 – Consent Item  
Single Family Affordable Housing Agreement  
Habitat for Humanity of Greater Orlando, Inc.

On November 3, 2015 Orange County completed the foreclosure of 4.83 acres of property known as Bithlo Ranches Annex, Tract 7, 8, and 9. The property had become an abandoned, dilapidated mobile home trailer park located at 18981 Lansing Street in the Bithlo area. As part of the Code Enforcement process, Orange County demolished the 18 trailers. Habitat for Humanity of Greater Orlando, Inc. (Habitat) has agreed to develop the site and construct eight affordable single-family homes under their home ownership program. Habitat is a qualified not-for-profit corporation possessing the skills, knowledge, and experience necessary to take possession of the property and construct affordable housing.

Habitat will be responsible for performing all the duties and activities associated with developing the site and constructing eight single family homes to be occupied by low or very low-income households. All potential homebuyers will be required to complete Habitat's homeownership program, which includes 500 hours of sweat equity volunteer work.

Page Two  
October 18, 2016 – Consent Item  
Single Family Affordable Housing Agreement  
Habitat for Humanity of Greater Orlando, Inc.

**ACTION REQUESTED: Approval and execution of Single Family Affordable Housing Developer's Agreement between Orange County, Florida and Habitat for Humanity of Greater Orlando, Inc.; Resolution of the Orange County Board of County Commissioners regarding Authorizing the Conveyance of County Foreclosed Property; and County Deed from Orange County to Habitat for Humanity of Greater Orlando, Inc. and authorization to perform all actions necessary and incidental to closing to facilitate the conveyance of a property for affordable housing. District 5**

JVW:MG

Attachments

BCC Mtg. Date: October 18, 2016

This instrument prepared by:  
Lila McHenry, Senior Assistant County Attorney  
Orange County Attorney's Office  
201 S. Rosalind Avenue  
Orlando, FL 32801

**SINGLE FAMILY AFFORDABLE HOUSING  
DEVELOPER'S AGREEMENT BETWEEN ORANGE COUNTY, FLORIDA  
AND HABITAT FOR HUMANITY OF GREATER ORLANDO, INC.**

THIS AGREEMENT is made and entered into by and between ORANGE COUNTY, FLORIDA, a charter County and political subdivision of the State of Florida (hereinafter referred to as "the County") and Habitat for Humanity of Greater Orlando, Inc., a Florida not-for-profit corporation ("Habitat").

**RECITALS**

WHEREAS, on July 31, 1997, the County's Housing and Community Development Division and the Zoning Division entered into a Memorandum of Understanding concerning the transfer of properties that have been deeded in lieu of foreclosure or foreclosed by the Code Enforcement Division (the "MOU"); and

WHEREAS, on February 10, 1998, the Board of County Commissioners approved Resolution No. 98-M-01 authorizing the conveyance of title to publicly owned properties suitable for affordable housing development to not-for-profit developers of affordable housing under the Foreclosed Properties Program; and

WHEREAS, the County acquired title to, that certain tract of real property in Orange County, Florida, more particularly described in Exhibit "A", attached hereto and incorporated herein, (the "Property") pursuant to such MOU and has determined that the Property is suitable for affordable housing pursuant to its Foreclosed Properties Program; and

WHEREAS, Habitat is a qualified not-for-profit corporation possessing the requisite skills, knowledge and qualifications and experience necessary to build affordable housing; and

WHEREAS, Habitat intends to develop and construct eight (8) single family fee simple affordable housing units on the Property (the "Project"); and

WHEREAS, in consideration for building and selling single-family affordable housing units to qualified low or very low income families, the County, through its Housing and Community Development Division (the "Division") will after execution of this agreement transfer title to the Foreclosed Property to Habitat; and

WHEREAS, all units constructed under the Affordable Housing Foreclosed Property Program shall be sold to low or very low-income persons or families.

WHEREAS, the Board of County Commissioners of Orange County, Florida, has determined that the County's conveyance of properties under the Affordable Housing Foreclosed Property Program to facilitate the development of affordable housing serves a valid public purpose.

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

### **I. Incorporation of the Recitals**

The foregoing recitals are true, correct and are incorporated herein as set forth.

### **II. Definitions**

- A. **Affordable** shall be defined as that monthly mortgage payment including taxes and insurance that does not exceed thirty (30) percent of the median adjusted gross annual income for households earning eighty (80) percent or less of the Orlando Metropolitan Statistical Area ("MSA") median income. However, it is not the intent to limit an individual's ability to devote more than thirty (30) percent of household income for housing. Housing, for which a household devotes more than thirty (30) percent of its income, shall be deemed affordable if the first mortgage lender is satisfied that the household can afford mortgage payments in excess of the thirty (30) percent benchmark.
- B. **Very Low-Income** family shall be defined as that household that has a total annual anticipated gross income adjusted for household size that does not exceed fifty (50) percent of the median annual income adjusted for family size for households within the Orlando MSA.
- C. **Low-Income** family shall be defined as that household that has a total annual anticipated gross income adjusted for household size that does not exceed eighty (80) percent of the median annual income adjusted for family size for households within the Orlando MSA.

### **III. Development and Construction of Project.**

- A. Subject to the terms of this Agreement, the County will convey the Property to Habitat as a contribution towards the cost of the Project. The Property will be conveyed by county deed free and clear of all liens, encumbrances, assessments, and other matters of record that would interfere with the use of the Property for the construction of the Project. Habitat will obtain additional development and construction financing from public agencies, private institutions or private funds. Habitat shall be responsible for paying all costs of the Project, excluding the land, including but not limited to on-site and off-site infrastructure, architectural and design fees, development, platting, engineering, permits, licenses, inspections testing, construction indemnity and surety bonds, insurance premiums and any other direct or indirect costs of the Project.
- B. Upon execution of this Agreement by all applicable parties the County will transfer the Property to Habitat for purposes of developing eight single-family housing units. The units to be constructed shall be sold to and occupied by individuals or families whose income does not exceed eighty (80) percent of the median annual income adjusted for family size for households within the Orlando MSA.
- C. Habitat, through its consultants and contractors, will develop the conceptual site plan, including preliminary and final plans, drawings, and specifications for the development of the site and construction of the Project. The plans and specifications shall be prepared by architects, engineers and other professions and trades, which shall be licensed to practice in the State of Florida. No construction shall be commenced on the Property except pursuant to plans and specifications approved by the County.

### **IV. Affordability Restrictions**

- A. The housing units to be constructed shall be sold to and occupied by individuals or families whose income does not exceed eighty percent (80) percent of the median annual income adjusted for family size for households within the Orlando Metropolitan Statistical Area (MSA).
- B. Within thirty (30) days after closing of the sale of each unit, Habitat shall submit copies of the following documents to the Division:
  - (1) Copy of Fannie Mae Form 1003, Uniform Residential Loan Application or similar mortgage loan application;
  - (2) Verification of earnings (e.g. VOE, SSI award letter, pay-stubs, etc.);

- (3) Copy of appraisal report;
  - (4) Copy of sales and purchase contract;
  - (5) Copy of Good Faith Estimate; and
  - (6) Copy of fully executed closing statement (HUD-1)
- C. If Habitat is unable to sell a unit or units pursuant to the terms of this Agreement within 180 days from the completion of construction of a unit, Habitat may submit a written request to the County through its Division Manager for relief from the affordability restrictions contained in this Agreement. The Division shall review Habitat's request and submit recommendations to the Board of County Commissioners, but shall be under no obligation to recommend granting relief from the affordability restrictions. The decision to grant relief from the affordability restrictions shall be made in the sole discretion of the Board of County Commissioners.

#### **V. Financing, and Affordability and Project Completion**

- A. Habitat may seek and obtain financing for the design, development and construction cost, of the Project through public agencies, private institutions, or private funds.
- B. Qualified families determined to be low or very low income are eligible for assistance under Orange County's Down Payment Assistance Program.
- C. Within thirty-six (36) months from the date of execution of this Agreement, Habitat shall (i) complete the site development of the Property, (ii) construction thereon of eight single-family homes and (iii) shall have closed on the sale of the units to qualified individuals or families. In the event of any unavoidable delays deemed to be beyond the control of Habitat, the completion date may be extended by the Manager of Orange County's Housing and Community Development Division in his reasonable discretion. Any such extension of the completion date shall be made in writing by the Manager.
- D. Homebuyer(s) must complete an approved Fannie Mae or Housing and Urban Development (HUD) homebuyer's education course prior to closing and receive a certificate of completion. Homebuyer(s) may apply to Orange County Housing and Community Development for down payment assistance.
- E. Habitat shall issue a one (1) year builders warranty to cover "Workmanship and Materials."

## **VI. Incorporation of County Policies**

This Agreement shall be read in conjunction with and be subject to all Orange County ordinances, resolutions, regulations and policies.

## **VII. Notices**

Any notices required or allowed hereunder shall be in writing and given by certified mail, return receipt requested, or in person with proof of delivery, to the addresses below, or such other address as either party shall have specified by written notice to the other party delivered in accordance herewith:

HABITAT: Catherine Steck McManus, President/CEO  
Habitat for Humanity of Greater Orlando, Inc.  
4116 Silver Star Road  
Orlando, FL 32808

-and-

COUNTY: Manager  
Orange County Housing and Community Development Division  
525 East South Street  
Orlando, Florida 32801

## **VIII. Waiver of Breach**

Waiver of breach of one covenant or condition of this Agreement is not a waiver of breach of other covenants and conditions of this Agreement, or of a subsequent breach of the waived covenant(s) or condition(s).

## **IX. Term and Termination**

This Agreement shall terminate upon sale of all housing units to qualified homebuyers. However, the income restrictions on the Property shall survive termination of this Agreement.

## **X. Disclaimer of Third Party Beneficiaries**

This Agreement is solely for the benefit of the County and Habitat and no right or cause of action shall accrue to or for the benefit of any third party.

## **XI. Indemnification**

- A. Upon conveyance by the County of the Property to Habitat, Habitat shall assume all liabilities, risks and losses for damage to the Property, any

structures or improvements made to or installed on the Property, and for injuries to persons on the Property resulting from the acts or omissions Habitat, its officers, employees, agents, contractors or subcontractors.

- B. Developer will defend, indemnify and hold harmless the County, its agents and employees, from and against any and all liabilities, claims, damages, losses and expenses, including attorney's fees and costs, arising out of or resulting from Habitat's exercise of its rights or fulfillment of its duties under this Agreement or that of Developer's agents, officers, employees, entities, contractors, or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, except to the extent such damages or losses are caused by the negligence or misconduct of the County, its agents, officers, employees, entities, contractors, or anyone directly or indirectly employed by any of them.
- C. Habitat further agrees to require each of its contractors, subcontractors, laborers, suppliers, agents or other individuals or entities to indemnify and hold County harmless from any and all claims, losses, damages, lawsuits or threat of lawsuit made against the County for personal injury or property damage that may arise at any time from, or related to their acts, errors or omissions in connection with or arising out of the development of construction of the Project.

## **XII. Assignment**

The County shall have the right to assign or transfer this Agreement in whole or in part to any properly authorized commission, authority or other public agency empowered by law to serve the unincorporated area of Orange County. Habitat shall not have the right to assign, sell, bargain, convey, or transfer its interest in this Agreement.

## **XIII. Recordation of the Agreement**

The parties hereto agree that an executed original of this Agreement shall be recorded at Habitat's expense in the Public Records of Orange County, Florida. The obligations imposed in this Agreement are a restrictive covenant running with the land and shall be binding upon Habitat's successors and assigns. The County or any successor agency or entity will from time to time upon the request of the Habitat execute and deliver estoppel letters affirming the status of this Agreement.

## **XIV. Severability**

If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Agreement. If the rights and obligations of the parties contained herein are not materially prejudiced and if



the intentions of the parties can continue to be effected, this Agreement is declared severable.

#### **XV. Entire Agreement and Modification**

This instrument constitutes the entire Agreement between the parties and supersedes all previous discussions, understandings, and agreements as to the administration of the Affordable Housing Foreclosed Property Program. No amendment or modification of this Agreement shall be valid unless in writing and executed by the parties.

#### **XVI. Land Use Approvals**

This Agreement shall not be construed as granting or assuring or indicating any approval of any necessary applications or approval or acquiescence to the alteration of existing land use or approval for any other regulatory permit relating to the Project, or creating any vested right with respect to any land use regulations, and the Board shall not be construed by virtue of entering into this Agreement to have made any such endorsement, finding, or recommendation or to have waived any right of the Board or to have estopped the Board from asserting any rights or responsibilities it may have in such regard respect to the Property. Habitat shall comply with all County requirements relating to approval of construction plans and building permits.

#### **XVII. Applicable Law**

This Agreement shall be construed, controlled, and interpreted according to the laws of the State of Florida.

#### **XVIII. Non-discrimination**

Habitat will ensure that there will be no discrimination on the basis of race, ethnicity, color, age, sex, sexual preference, marital status, handicap, religion, or national origin.

#### **XIV. Effective Date**

This Agreement shall become effective upon the date of last execution by Habitat or the County, whichever is later.

**[SIGNATURES ON FOLLOWING PAGES]**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the dates set forth below by their duly authorized officials.



ORANGE COUNTY, FLORIDA

BY: Board of County Commissioners

BY:

*Teresa Jacobs*  
Teresa Jacobs  
Orange County Mayor

Date: 10.18.16

ATTEST: Martha O. Haynie, Orange County Comptroller  
As Clerk of the Board of County Commissioners

BY:

*Katie Smith*  
Deputy Clerk

HABITAT FOR HUMANITY OF GREATER  
ORLANDO, INC.

BY: Catherine McManus  
Catherine Steck McManus

TITLE: President and CEO

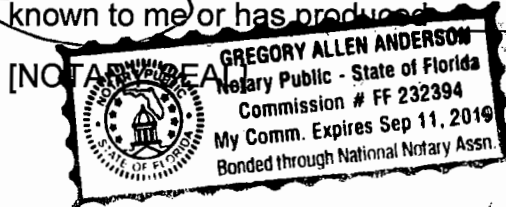
Date: 9/27/16

ATTEST:

By: [Signature]  
Print Name: Erin M. Gray  
Board Chairman or Board Representative

STATE OF FLORIDA  
COUNTY OF ORANGE

The aforesaid instrument was acknowledged before me on the 27<sup>th</sup> day of September, 2016 by Catherine Steck McManus of Habitat for Humanity of Greater Orlando, Inc., a Florida not-for profit corporation, on behalf of the corporation. She is personally known to me or has produced \_\_\_\_\_ as identification.



[Signature]  
Signature of Notary Public

Commission Expires:

Printed name: Gregory Allen - Anderson

STATE OF FLORIDA  
COUNTY OF ORANGE

The aforesaid instrument was acknowledged before me on the 28 day of September, 2016 by Erin M. Gray, Board Chairman, or Board Representative of Habitat for Humanity of Greater Orlando, Inc., a Florida not-for profit corporation, on behalf of the corporation. She is personally known to me or ~~has produced~~ \_\_\_\_\_, as identification.

[NOTARY SEAL]



Signature of Notary Public: [Signature]  
Printed name: LINDA A. SCARCELLI

Commission Expires:

## **EXHIBIT "A"**

### **LEGAL DESCRIPTION**

Tract #7, Bithlo Ranches Annex, described as follows: Commence at the East  $\frac{1}{4}$  corner of Section 27, Township 22 South Range 32 East; run thence South along the East line of the Southeast  $\frac{1}{4}$  of said Section 27, a distance of 419.36 feet; run thence South 89 degrees 39 minutes 11 seconds West, 331.59 feet to the Point of Beginning; run thence South 89 degrees 39 minutes 11 seconds West, 280.09 feet; run thence North 14 degrees 07 minutes 39 seconds East, 157.0 feet; run thence North 27 degrees 37 minutes 39 seconds East, 115.0 feet; run thence North 49 degrees 30 minutes 39 seconds East, 93.0 feet; run thence North 65 degrees 34 minutes 39 seconds East, 129.27 feet; run thence South 366.27 feet to the Point of Beginning. Subject to an easement for drainage over the Westerly and Northerly 30 feet thereof, Orange County, Florida.

Tract #8, Bithlo Ranches Annex, described as follows: Commence at the East 114 corner of Section 27, Township 22 South. Range 32 East; run thence South 89 degrees 24 minutes 11 seconds West, along the quarter section line 166.59 feet to the Point of Beginning; run thence South parallel to the East line of the Southeast  $\frac{1}{4}$  a distance of 418.63 feet; run thence South 89 degrees 39 minutes 11 seconds West, 165.0 feet; run thence North 366.27 feet; run thence North 65 degrees 34 minutes 39 seconds East, 44.73 feet; run thence South 84 degrees 38 minutes 21 seconds East, 18.82 feet; run thence North 00 degrees 34 minutes 49 seconds West, 35.52 feet to a point on the North line of said southeast 114; run thence North 89 degrees 24 minutes 11 seconds East, 105.91 feet to the Point of Beginning.

Subject to an easement for drainage described as follows; Return to the Point of Beginning of the above described parcel; run thence South 75.0 feet; run thence South 89 degrees 24 minutes 11 seconds West, 143.11 feet; run thence South 65 degrees 34 minutes 39 seconds West, 23.73 feet to a point on the West line of the above described parcel; run thence North 32.95 feet; run thence North 65 degrees 34 minutes 39 seconds East, 44.73 feet; run thence South 84 degrees 38 minutes 21 seconds East, 18.82 feet; run thence North 00 degrees 35 minutes 49 seconds West, 35.52 feet; run thence North 89 degrees 24 minutes 11 seconds East, 105.91 feet to the Point of Beginning, Orange County, Florida.

Tract #9, Bithlo Ranches Annex, described as follows: Commence at the East  $\frac{1}{4}$  corner of Section 27, Township 22 South. Range 32 East; run thence South along the East line of the Southeast  $\frac{1}{4}$  of said Section 27, a distance of 419.36 feet; run thence South 89 degrees 39 minutes 11 seconds West, 166.59 feet; run thence North 418.63 feet to a point on the North line of said Southeast  $\frac{1}{4}$ ; run thence North 89 degrees 24 minutes 11 seconds East: 166.59 feet to the Point of Beginning; Subject to on easement for drainage over the North 75.0 feet thereof, Orange County, Florida.

BCC Mtg. Date: October 18, 2016

Project: Bithlo Ranches – Foreclosed Properties

**COUNTY DEED**

THIS DEED, made as of the date signed below, by Orange County, a charter county and political subdivision of the state of Florida, whose address is P. O. Box 1393, Orlando, Florida 32802-1393, GRANTOR, and Habitat for Humanity of Greater Orlando, Inc., a Florida not-for-profit corporation, whose address is 4116 Silver Star Road, Orlando, Florida 32808, GRANTEE.

WITNESSETH: That the GRANTOR, for and in consideration of the sum of \$1.00 and other valuable considerations, in hand paid by the GRANTEE, the receipt whereof is hereby acknowledged, does hereby remise, release, and quit-claim unto the said GRANTEE forever, all the right, title, interest, claim, and demand which the GRANTOR has in and to the following described lot, piece, or parcel of land, situate, lying and being in the county of Orange, state of Florida, to-wit:

**SEE ATTACHED EXHIBIT "A"**

**Property Appraiser's Parcel Identification Number:**

**27-22-32-0735-00-070**

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity, and claim whatsoever of the GRANTOR, either in law or equity, to the only proper use, benefit, and behoove of the GRANTEE forever.

Project: Bithlo Ranches – Foreclosed Properties

IN WITNESS WHEREOF, the said GRANTOR has caused these presents to be executed in its name by its Board, acting by the County Mayor, the day and year as written below.



ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

BY: *Teresa Jacobs*  
Teresa Jacobs  
Orange County Mayor

DATE: 10.18.16

ATTEST: Martha O. Haynie, County Comptroller  
As Clerk to the Board

BY: *Katie Smith*  
Deputy Clerk

Katie Smith  
Printed Name

**This instrument prepared by:**

Virginia G. Williams, a staff employee  
in the course of duty with the  
Real Estate Management Division  
of Orange County, Florida

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