City of Cocoa

65 Stone Street
Cocoa, FL 32922

Meeting Agenda - Final

Tuesday, March 14, 2023

6:00 PM

Cocoa City Council Chambers

City Council

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL

II. APPROVAL OF AGENDA AND MINUTES:

AGENDA:

II.1 23-170 Approve the Agenda for the Regular meeting of March 14, 2023, as presented or with amendments.

Attachments: 03-14-2023 Short Agenda ADA.pdf

MINUTES:

II.2(a) 23-174 Approve the January 10, 2023 Regular Meeting minutes as written or with amendments.

Attachments: 01-10-2023 Minutes (Draft) ADA.pdf

Exhibit A - Economic Update Presentation.pdf

II.2(b) 23-185 Approve the Minutes of the Regular Meeting of February 14, 2023, as written or with amendments.

Attachments: 02-14-2023 Minutes ADA.pdf

III. AWARDS AND PRESENTATIONS:

III.1 23-171 Key to the City Presentation to Neely J. Dunn

IV. DELEGATIONS:

In accordance with the City Council's rules and procedures, residents or tax-payers of the City (upon any subject of general or public interest), City employees (regarding his/her employment), and water and sewer customers (on matters related to the City's water and/or sewer system), may address the City Council under Delegations on items not on the printed agenda by filling out a speaker card.

Speaker cards are located outside the Council meeting room and should be provided to the City Clerk. Please observe the time limit of three (3) minutes while speaking under Delegations. Delegations shall be limited to thirty (30) minutes unless extended by Council.

V. CONSENT AGENDA:

V.1 23-126

Approve a resolution amending the FY23 budget, BAF 23-041-A to true-up the necessary capital budget and PO roll amounts. Capital projects were completed and PO's liquidated so we would like to decrease the dependency of fund balance for completed projects and assign budget for promotional activity for the City Manager's department.

Attachments:
Budget Resolution FY 2023- Agenda 23-126.docx
BAF 23-041-A-FN-PO Capital Roll True Up (3-14-23) Agenda 23-126.pdf
BAF 23-041 Tracking Sheet.pdf

V.2 23-135

To Award Bid No. B-23-14-COC, Groundwater Filter #3 IMS Cap and Media Replacement, Project No. WS23DF to Elenis Contracting LLC of Poland, Ohio, in the Amount of $424,120.37; To Approve a Resolution Authorizing the City Manager to Approve Change Orders in an amount not to exceed $42,413 (10% of the contract amount), for a total cost of $466,533.37; To Approve a Resolution Amending the FY2023 Budget, BAF# 23-046-T; To Authorize the City Manager to execute the Contract.

Attachments:
B-23-14-COC Construction Agreement - pg 17 signed.pdf
Contingency Resolution WS23DF.doc
Budget Resolution FY 2023- WS23DF.docx
BAF 23-046-T-UT-Fund Caps and Media on Filter 3 (3-14-23) Agenda 23-135.p
ITB_B-23-14-COC_Dyal_GW_Filter_3_IMS_Cap_and_Media_Replacement_FI
Exhibit A - Technical Specifications B-23-14-COC.pdf
Addendum #1 Q&A.pdf
B-23-14-COC Bid Tabulation.pdf
Elenis Bid.pdf

V.3 23-136

To Approve Change Order #3 to Purchase Order 77494 with Kirwin Norris, PA, for on-going legal and related expert services regarding two pending lawsuits against Brandes Design-Build for Issues with the Jerry Sellers Tank Coating Failure/Repairs and Industrial Park Interior Coating Failure/Repairs

Attachments:
77494.pdf
77494-1.pdf
77494-2.pdf
Billing and Fee Arrangements Kirwin Norris.pdf

V.4 23-147 To Approve a Resolution Waiving the Competitive Bidding Process for the Purpose of Making an Exemption to Competitive Purchase through Ferguson Waterworks, Melbourne, Florida for Neptune Water Meter Registers (Warranty)

Attachments: Ferguson Warranty Registers Bid No. B566666 $9619.50.pdf
Ferguson Warranty Registers Bid No. B566955 $61809.00.pdf
R900i Register Warranty.pdf
Resolution - Sole Source (Ferguson).doc

V.5 23-165 Approval of Resolution #2023-018 Amending the FY23 Budget BAF 23-050-T Amending Fiscal Year 2023 Budget, using General Fund Contingency for additional budget needed for legal fees related to Human Resources.

Attachments: Budget Resolution FY 2023- ADA Compliant.docx
BAF 23-050-T-HR-Fund Legal Expenses (3-14-23) Agenda 23-165.pdf

V.6 23-177 To provide approval for the City to apply for the Victims of Crime Act (VOCA) Grant Cycle 2023-2024 for partial salaries and benefits for both Victim Advocates, in order to provide victim advocate services to crime victims.

Attachments: Internal Grant Application VOCA 2024.pdf

V.7 23-180 Authorize the City Manager to execute the attached pre-agreement materials for the Department of Environmental Protection's Resilient Florida Program grant for stormwater quality enhancements and resiliency at Dixon Blvd. and Indian River Drive.

Attachments: DEP Resilient Florida Program Fiscal Year 2022-2023 Implementation Grant 23
FFATA Form 3.23.22.pdf
Resilient Florida Grants FY 22-23 Insurance Requirements.docx
SLFRF Reporting Requirements for Contracts and Grants 2.8.23.docx
XXXXX 7. Attachment 8. Contract Provisions SLFRF (11.15.22).pdf

V.8 23-188 Approve a Resolution Amending the FY23 Budget, BAF 23-054-A to roll the Grant Budget into the current fiscal year for each grant fund.

Attachments: Budget Resolution FY 2023- Agenda 23-126.docx
BAF 23-054-A-Grants Roll (3-14-23) Agenda 23-188.pdf
BAF 23-054-A-Tracking Sheet.pdf

V.9 23-189 Approval to increase headcount and add the Assistant Fire Marshal position to the Pay Plan for Fiscal Year 2023.

Attachments: 2022-086 (Fire Protection Fee Schedule) (002).pdf
DRAFT FY 2023 Pay Grades and Pay Plan (3-14-2023).pdf

MULTI-YEAR CONTRACTS:

V.10(B) 23-150 Council Approval to Enter into a multi-year contract with NEOGOV a parent company of POWERDMS in the amount of $7020 for POWERFTO subscription.

Attachments: Cocoa Police - PowerDMS Quote for Signature - Add FTO Module - Apr '23.pdf

VI. PUBLIC HEARINGS:

VI.1 23-161 Consideration of Ordinance 01-2023 a Zoning Map Amendment consistent with Appendix A, Zoning, Article XXII, changing the Official Zoning Map designation of two (2) parcels totaling ±.64 acres from County Single-Family Residential (RU-1-9) to City Single-Family Residential (RU-1-7).

Attachments: Ordinance 01-2023 Rezoning Paradise Church County RU-1-9 to RU-1-7.pdf
Exhibit A - Paradise Church Site Location (1).pdf
Exhibit B - Paradise Zoning Map (1).pdf
Exhibit C - FLU Paradise Church (1).pdf
Exhibit D - Application 2424558-242457 Paradise Church.pdf
Notice of Public Hearing - Zoning Map Text Amendments (2).pdf

VII. COUNCIL BUSINESS:

VII.1 23-132 Approve the current Code Enforcement Lien for the property located at 714 Johnson St., be reduced to $2,000.00 as recommended by the Code Enforcement Board.

Attachments: LR - 714 Johnson St..pdf
Staff Report for Lien Reduction-714.docx
Cost Affidavit Form -714johnson.xlsx
BCPAO.pdf
Finding of Fact Order.pdf
Order Imposing.pdf

VII.2 23-133 Request Council to award Bid # B 23-15-COC to the lowest bidder Sapphire Elevator for the Elevator Upgrade at the Historic Cocoa Village Playhouse in the amount of $67,083 and execute the agreement. Approve a Resolution Amending the FY 2023 Budget, BAF # 23-047-A. Approve a Project Contingency Resolution for approval of any Change Orders not to exceed $7,060. Authorize the City Manager to execute amendments and extensions to the agreement within approved contingency.

Attachments:
- B-23-15-COC Construction Agreement - Partial.pdf
- Budget Resolution FY 2023- ADA Compliant.pdf
- BAF 23-047-A-PW-Elevator Upgrades a Cocoa Playhouse (3-14-23) Agenda 23
- Construction Contingency Resolution.docx
- ITB B-23-15-COC Playhouse Elevator.pdf
- Sapphire Bid $67,083.pdf
- B-23-15-COC Bid Tabulation.pdf
- Sapphire Bid Form $67,083.pdf
- City - Playhouse Agreement.pdf

VII.3 23-164 Council approval to join with the State of Florida and other Local Governmental Units as a Participant in the Walmart Florida Settlement Agreement and Release Formal Agreements Implementing a Unified Plan for the Allocation and Use of Prospective Settlement Dollars from Opioid Related Litigation

Attachments:
- Walmart Subdivision Estimates.xlsx
- Walmart_Florida_Settlement_Execution Copy.pdf
- Walmart Florida Settlement Exhibits.pdf

VIII. CITY BUSINESS:

VIII.1 23-166 Council approval to apply for a Phase 1 - Design and Permitting grant through the Florida Inland Navigation District (FIND) for the design a new docking system and breakwater to replace and protect the day slips that were destroyed by Hurricanes Ian and Nicole located at the Cocoa Waterfront. Approve the Resolution. Authorize the City Manager to Execute the Grant Application.

Attachments:
- 031423 - FIND Resolution.docx
- 022723 - WAP 2023 Application Part 2.pdf
- Int Grant App - FIND Docking_Breakwater SIGNED.pdf

VIII.2 23-168 Staff recommends approval to remove an oak tree at 2514 Suwannee Drive and provide a replacement oak tree at Bracco Stormwater Park and to remove an oak tree at 307 Blake Avenue and provide a replacement magnolia tree at Bracco Stormwater Park.

Attachments:
- 2514 Suwannee Dr (1).jpg
- 2514 Suwannee Dr (2).jpg
- 307 Blake Avenue (1).jpg
- 307 Blake Avenue (2).jpg
- 100722 - Josh DeCarlo - ISA Certification.pdf
- 010323 - 2514 Suwanee Dr - Tree Risk Assessment.pdf
- 030723 - 307 Blake Ave - Tree Risk Assessment.pdf

IX. INFORMATIONAL AGENDA:

IX.1 23-63 This is an informational agenda item regarding an Emergency Purchase being declared on December 21, 2022 for Crom, LLC to Perform Emergency Repairs on the Dyal WTP Clarifier #3 in accordance with the Financial Operations Manual (FOM) Chapter 12.2-B. “Exceptions to Competitive Sealed Bidding” for Emergency Purchases.

Attachments:
- Proposal - Christmas, FL 20220520.pdf
- COI - Exp 12-31-23.PDF
- CCR_W9_2023.PDF
- Fwd Emergency Purchase Declaration and Justification.msg
- Contingency Resolution for CROM.doc
- Clarifier 3 Exempt Vendor Resolution.doc

IX.2 23-181 City Council Bi-Weekly Report for February 24-March 9, 2023.

Attachments:
- Council bi-weekly report template (1).pdf

X. REPORTS:

XI. ADJOURNMENT

XII. NOTICE TO THE PUBLIC:

This is a public meeting. All interested parties may attend in person. The facility wherein this public meeting will be held is accessible to the physically handicapped. In accordance with the Americans With Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk of the City of Cocoa, listed below, at least 48 hours prior to the meeting: Carie Shealy, City Clerk, 65 Stone Street, Cocoa, by telephone at (321) 433-8484 or via email at cshealy@cocoafl.org.

Additionally, interested persons may view or listen to the meeting electronically at the following internet sites:
(1) https://tinyurl.com/s5e875r or
(2) https://cocoa.legistar.com/DepartmentDetail.aspx?ID=26365&GUID=FF9D3369-D354-4FAB-800A-57D0AEE30153&Mode=MainBody

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Pursuant to Section 286.0105, Florida Statutes, the City hereby advises the public that: if a person decides to appeal any decision made by the City Council with respect to any matter considered at its meeting or hearing, that person will need a record of the proceedings and for such purpose, affected persons may need to assure that a verbatim record of the proceedings is made, and such record shall include the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission into evidence of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals otherwise not allowed by law.

Although members of the public are entitled to be heard by the City Council on certain items on the meeting agenda pursuant to the City Council Rules of Procedure, members of the public are not entitled to an immediate response by either administrative staff members or Council; however, the City Council or administrative staff may provide a response at their discretion. When presenting before the City Council, all comments or questions should be directed to the Mayor or the chair of the meeting. Comments or questions should not be made directly to administrative staff without permission from the Mayor or chair.
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This agenda is posted on the Municipal Bulletin Board and at the Central Brevard Library and Reference Center in Cocoa for public review.

Legislation Details (With Text)

File #:	23-170	**Version:**	1	**Name:**	
Type:	Agenda			**Status:**	Agenda Ready
File created:	3/2/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	Approve the Agenda for the Regular meeting of March 14, 2023, as presented or with amendments.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	03-14-2023 Short Agenda ADA.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: March 2, 2023
Agenda Date: March 14, 2023
Prepared By: Carie Shealy, City Clerk
Through:
Requested Action:
Approve the Agenda for the Regular meeting of March 14, 2023, as presented or with amendments.

BACKGROUND:

The City Council approves the agenda for all of its regular meetings at the beginning of such meetings.

STRATEGIC PLAN CONNECTION:

na

BUDGETARY IMPACT:

na

PREVIOUS ACTION:

The City Council has approved its agenda for all regular meetings at the beginning of such meetings.

RECOMMENDED MOTION:

Approve the Agenda for the Regular meeting of March 14, 2023, as presented or with amendments.

Agenda
City of Cocoa
Regular Meeting of The City Council

Date: March 14, 2023
Time: 6:00 pm
Location: 65 Stone Street Cocoa, FL 32922

I. Opening Matters:

1. Call to Order
2. Invocation
3. Pledge of Allegiance
4. Roll Call

II. Approval of Agenda and Minutes:

1. Agenda: Regular Meeting of March 14, 2023. (23-170)

2. Minutes: (a) Regular Meeting of January 10, 2023 (23-174)
(b) Regular Meeting of February 14, 2023 (23-185)

III. Awards and Presentations:

1. Presentation of a Key to the City to Neely J. Dunn. (23-171). (Mayor Blake)

IV. Delegations:

In accordance with the City Council's rules and procedures, residents or tax-payers of the City (upon any subject of general or public interest), City employees (regarding his/her employment), water and sewer customers (on matters related to the City's water and/or sewer system), and any person on any item on the agenda (except *Emergency items, Ministerial items, Quasi-judicial items, and Public Hearing items),* may address the City Council under Delegations by filling out a speaker card.

Speaker cards are located in the Council Chamber lobby and should be provided to the City Clerk. Please observe the time limit of three (3) minutes while speaking

under Delegations. Delegations shall be limited to thirty (30) minutes unless extended by Council.

V. Consent Agenda:

(A) General Consent Items:

1. Approve a resolution amending the FY23 budget, BAF 23-041-A to true-up the necessary capital budget and PO roll amounts. Capital projects were completed and PO's liquidated so we would like to decrease the dependency of fund balance for completed projects and assign budget for promotional activity for the City Manager's department. (23-126). (Finance Director)

2. Award Bid No. B-23-14-COC, Groundwater Filter #3 IMS Cap and Media Replacement, Project No. WS23DF to Elenis Contracting LLC of Poland, Ohio, in the Amount of $424,120.37; To Approve a Resolution Authorizing the City Manager to Approve Change Orders in an amount not to exceed $42,413 (10% of the contract amount), for a total cost of $466,533.37; To Approve a Resolution Amending the FY2023 Budget, BAF# 23-046-T; To Authorize the City Manager to execute the Contract. (23-135). (Utilities Director)

3. Approve Change Order #3 to Purchase Order 77494 with Kirwin Norris, PA, for on-going legal and related expert services regarding two pending lawsuits against Brandes Design-Build for Issues with the Jerry Sellers Tank Coating Failure/Repairs and Industrial Park Interior Coating Failure/Repairs. (23-136). (Utilities Director)

4. Approve a Resolution Waiving the Competitive Bidding Process for the Purpose of Making an Exemption to Competitive Purchase through Ferguson Waterworks, Melbourne, Florida for Neptune Water Meter Registers (Warranty). (23-147). (Utilities Director)

5. Approval of Resolution No. 2023-018, Amending the FY23 Budget BAF 23-050-T Amending Fiscal Year 2023 Budget, using General Fund Contingency for additional budget needed for related legal fees. (23-165). (Administrative Services Director)

6. To provide approval for the City to apply for the Victims of Crime Act (VOCA) Grant Cycle 2023-2024 for partial salaries and benefits for both Victim Advocates, in

order to provide victim advocate services to crime victims. (23-177). (Chief of Police)

7. Authorize the City Manager to execute the attached pre-agreement materials for the Department of Environmental Protection's Resilient Florida Program grant for stormwater quality enhancements and resiliency at Dixon Blvd. and Indian River Drive. (23-180). (Public Works Director)

8. Approve a Resolution Amending the FY23 Budget, BAF 23-054-A to roll the Grant Budget into the current fiscal year for each grant fund. (23-188). (Finance Director)

9. Approval to increase headcount and add the Assistant Fire Marshal position to the Pay Plan for Fiscal Year 2023. (23-189). (Administrative Services Director)

(B) Multi-Year Contracts:

10. Approval to Enter into a multi-year contract with NEOGOV a parent company of POWERDMS in the amount of $7,020 for POWERFTO subscription. (23-150). (Chief of Police)

VI. Public Hearings:

1. Consideration on First Reading of Ordinance No. 01-2023 a Zoning Map Amendment consistent with Appendix A, Zoning, Article XXII, changing the Official Zoning Map designation of two (2) parcels totaling ±.64 acres from County Single-Family Residential (RU-1-9) to City Single-Family Residential (RU-1-7). (23-161). (Public Works Director)

VII. Council Business:

1. Approve the current Code Enforcement Lien for the property located at 714 Johnson St., be reduced to $2,000.00 as recommended by the Code Enforcement Board (23-132). (Chief of Police)

2. Request Council to award Bid # B 23-15-COC to the lowest bidder Sapphire Elevator for the Elevator Upgrade at the Historic Cocoa Village Playhouse in the amount of $67,083 and execute the agreement. Approve a Resolution Amending the FY 2023 Budget, BAF # 23-047-A. Approve a Project Contingency Resolution for approval of any Change Orders not to exceed $7,060. Authorize the City Manager to execute amendments and extensions to the agreement within approved contingency. (23-133). (Public Works Director)

3. Council approval to join with the State of Florida and other Local Governmental Units as a Participant in the Walmart Florida Settlement Agreement and Release Formal Agreements Implementing a Unified Plan for the Allocation and Use of Prospective Settlement Dollars from Opioid Related Litigation. (23-164). (Chief of Police)

VIII. City Business:

1. Council approval to apply for a Phase 1 - Design and Permitting grant through the Florida Inland Navigation District (FIND) for the design a new docking system and breakwater to replace and protect the day slips that were destroyed by Hurricanes Ian and Nicole located at the Cocoa Waterfront. Approve the Resolution. Authorize the City Manager to Execute the Grant Application. (23-166). (Public Works Director)

2. Staff recommends approval to remove an oak tree at 2514 Suwannee Drive and provide a replacement oak tree at Bracco Stormwater Park and to remove an oak tree at 307 Blake Avenue and provide a replacement magnolia tree at Bracco Stormwater Park. (23-168). (Public Works Director)

Multi-Year Contracts:

None.

IX. Informational Agenda:

1. This is an informational agenda item regarding an Emergency Purchase being declared on December 21, 2022 for Crom, LLC to Perform Emergency Repairs on the Dyal WTP Clarifier #3 in accordance with the Financial Operations Manual (FOM) Chapter 12.2-B. “Exceptions to Competitive Sealed Bidding” for Emergency Purchases. (23-63). (Utilities Director)

2. City Council Bi-Weekly Report for February 24-March 9, 2023. (23-181). (City Manager)

X. Reports:

XI. Adjournment:

XII. Notice To The Public:

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with the Americans With Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk of the City of Cocoa, listed below, at least 48 hours prior to the meeting: Carie Shealy, City Clerk, 65 Stone Street, Cocoa, by telephone at (321) 433-8484 or via email at cshealy@cocoafl.org. Additionally, interested persons may view or listen to the meeting electronically at the following internet sites:

(1) https://tinyurl.com/s5e875r or

(2) https://cocoa.legistar.com/DepartmentDetail.aspx?ID=26365&GUID=FF9D3369-D354-4FAB-800A-57D0AEE30153&Mode=MainBody

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special interests in a matter shall be limited to ten (10) minutes; and total debate on a single issue shall be limited to thirty (30) minutes. Only one presentation per person per item shall be allowed.

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This Agenda may be Amended up until or at the Meeting

Legislation Details (With Text)

File #:	23-174	**Version:**	1	**Name:**	
Type:	Minutes			**Status:**	Minutes
File created:	3/2/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	Approve the January 10, 2023 Regular Meeting minutes as written or with amendments.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	01-10-2023 Minutes (Draft) ADA.pdf Exhibit A - Economic Update Presentation.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: March 2, 2023
Agenda Date: March 14, 2023
Prepared By: Monica Arsenault, Assistant City Clerk
Through:
Requested Action:
Approve the January 10, 2023 Regular Meeting minutes as written or with amendments.

BACKGROUND:

N/A

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

N/A

RECOMMENDED MOTION:

Approve the January 10, 2023 Regular Meeting minutes as written or with amendments.

MINUTES
City of Cocoa
Regular Meeting of The City Council

January 10, 2023

A Regular City Council Meeting was held on Tuesday, January 10, 2023, in Cocoa City Hall, in City Council Chambers, located at 65 Stone Street, in Cocoa, Florida, 32922, as publicly noticed.

I. Opening Matters:

Mayor Blake called the meeting to order at 6:03 p.m.

Councilman Goins provided the invocation and Ms. Ladie Ripoll led the assembly in the Pledge of Allegiance to the Flag of the United States of America.

The Assistant City Clerk took the roll.

PRESENT:	Michael C. Blake	Mayor
	Lavander Hearn	Deputy Mayor
	Rip Dyal	Councilmember
	Alex Goins	Councilmember
	Lorraine Koss	Councilmember
	Anthony Garganese	City Attorney
	Stockton Whitten	City Manager
	Monica Arsenault	Assistant City Clerk

OTHER STAFF MEMBERS PRESENT:

Jack Walsh, Utilities Director; Tammy Gemmati, Administrative Services Director; Charlene Neuterman, Community Services Director; Samantha Senger, Asst. to the CM/PIO; Evander Collier, Chief of Police; Rebecca Bowman, Finance Director; Jonathan Lamm, Fire Chief; Robert Beach, Chief Technology Officer; Bryant Smith, Public Works Director/Acting Growth & Economic Development Director; and Erik Montgomery, Helpdesk Support Tech.

II. Approval of Agenda and Minutes:

1. Agenda: Regular Meeting of January 10, 2023. (23-27)

* **MOTION by Mayor Blake; Seconded by Councilmember Dyal, to amend the Agenda by adding Deputy Mayor Hearn's name to Consent Item V.6, adding an application submitted by Chris Davis to Council Business Item VII.1 and adding an application submitted by Chris Bankhead to Council Business Item VII.2.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

2. Minutes: (a) Town Hall Meeting on October 18, 2022 (23-29)
(b) Swearing-In Ceremony on November 21, 2022 (23-30)
(c) Regular Meeting on November 29, 2022 (23-31)

* **MOTION by Deputy Mayor Hearn; Seconded by Councilmember Koss, to approve the October 18, 2022 Town Hall Meeting minutes as written.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

* **MOTION by Councilmember Goins; Seconded by Councilmember Koss, to approve the November 21, 2022 Swearing-In Ceremony Meeting minutes as written.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

* **MOTION by Mayor Blake; Seconded by Councilmember Goins, to approve the November 29, 2022 Regular City Council Meeting minutes as written.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

III. Awards and Presentations:

1. Informational Annual Investment Report for FY2022. (23-8). (Finance Director)

John Grady, Managing Director with Public Trust Advisors, provided an Economic Update and Portfolio Strategy Review presentation[1]. He spoke about inflation, mortgage rates and jobs in 2022. He shared a brief review of the City's Investment Program. Lastly, he gave a Portfolio Strategy Update.

IV. Delegations:

Donna Michaels, Cocoa resident, spoke about PTSD. She served in the military and retired due to PTSD after twenty-one years. She shared her story about PTSD and suicide. She obtained a service dog and noted how he has saved her life. It was thanks to officers like Chris Hattaway who helped her train her dog. It is vitally important to have strong leadership and mental health support in our agencies. She further spoke about the incident between a Cocoa officer and the Brevard County Sheriff's Office.

Scott Santy, Cocoa resident, has been having an issue in their neighborhood with someone shooting off fireworks at his neighbor's house behind him. This has been an ongoing and dangerous issue. He has reported this numerous times to the Police Department but nothing has been done. The Police Department needs to step up and he does not think that this is being handled properly. He is hoping the City will step in and take care of the issue.

Kimberly Devine, Cocoa resident, is a mother of four who lives in the same neighborhood as Mr. Santy. They have lived there since 2016. It used to be a safe neighborhood but it is no longer safe. Her children do not feel comfortable going outside and when they do go outside they are greeted with air horns, car alarms, screams and profanity. People have been on her property under the influence of drugs and alcohol and the police are doing their best to respond.

In response to a question by Mayor Blake, Mr. Santy shared that security camera footage has been shared with the Cocoa Police Department.

Chief Collier added that these issues are not going unnoticed. They are doing their best to respond to each call and are working on a different approach as the person in question has not been willing to cooperate. They are trying to press charges as permissible.

Lori Ray, Cocoa resident, brought a large jar filled with firework debris to show the Council how bad the issue is. This has been going on for two years and it is very dangerous. The police, animal control and the fire department have been called. They have been given the run around and need help. She is worried that someone is going to get hurt.

[1] Exhibit A: Economic Update and Portfolio Strategy Review Presentation

Aleck Greenwood, Cocoa resident, spoke about term limits on the City's boards. He hopes that the Council will consider supporting the reappointment of Todd Anderson this evening.

Additionally, he spoke to comments made by someone on the Council and he wished to make a clarification that he is not suing the City, he is appealing a decision that the Council made.

He also asked that an official apology be made to a previous employee, Angela Essing, as it was insinuated by a Councilmember that she did not do her job and now she no longer works for the city.

Al Wartell, Cocoa resident, asked why everything has to be racial. He is upset and offended by comments that were made by a Councilmember. He asked for an apology by that Councilperson. Additionally, he spoke about Chief Collier's hiring package and felt that there were documents that were pulled from his file. In response, Mayor Blake and City Manager Whitten shared that nothing was pulled from his file.

George Brown, Jr., Cocoa resident, wished to talk about the FYI Newsletter article advertising vacancies on the Code Board. He explained that the Council has the right to reappoint if they wish. He thinks it is a shame that their longest running chairperson, Jim Gifford, was kicked off the board due to term limits. He has served for forty years and would love to be considered for reappointment when his time is up.

* **MOTION by Mayor Blake; Seconded by Councilmember Goins, to extend Delegations for twenty-four minutes.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

Sandra Potter, Cocoa resident, shared that she is also having problems with a neighbor shooting off fireworks. She hopes something will be done.

Janice Smith, Cocoa resident, feels that it is only a matter of time before someone is seriously hurt due to the fireworks issue. She shared that on New Years' she was walking her dog and a firework almost hit her. These are deliberate attacks that need to be dealt with. The fireworks start a little before 10pm and have gone as late as 5am.

Chief Collier shared that he just received an update that charges were pressed on this person based on the events that happened on New Years' Eve.

Cheyenne Livingston, Cocoa resident, wished to talk about their community, Crestview Villas. Over the years it has changed drastically. He, along with several other homeowners, some of which are veterans, have been asked by property management to come up with $7,751 dollars each. He expressed that he, along with his neighbors, live on a fixed income. They were told that if they don't come up with the money, their homes would be foreclosed on. He asked Council for help.

Additionally, he has an issue with the crime going on in their complex and would like those issues to be addressed.

Marisol Lanza, Cocoa resident, spoke about ongoing issues with her neighbor. They shoot fireworks all the time and the debris is all over her yard. They also play loud music. A petition has been signed by several residents in her neighborhood and they are tired of the ongoing battle and would like their issues to be addressed.

Brenda Fox, Cocoa resident, is concerned about downtown Cocoa and certain developments increasing traffic. There is already a lot of traffic on SR520. She moved here to get away from heavy traffic and does not want to continue to live here if it gets worse.

Ladie Ripoll, Our Painted Hearts, explained that she has PTSD. She was inspired by an artist who taught her how to paint and now she offers therapy to people with PTSD through painting. They are located at 315 Florida Avenue in Cocoa at the Cocoa Elks Lodge.

Chris Webb & Paul Chinaris, Cocoa Rotary Club, would like to ask the City to accept a donation of a clock in Myrt Tharpe Square. It is similar to what City staff was looking at for a replacement, the only difference is it would have the Cocoa Rotary Club logo on it. They appreciate their partnership with the City and all of the hard work that staff puts in for their concerts and events.

V. Consent Agenda:

(A) General Consent Items:

1. Approve a Resolution Amending the FY23 Budget, BAF#23-034-T. Approve Change Order # 1 for P.O. 80264 with Inliner Solutions LLC in the Amount of $15,248. (23-13). (Public Works Director/Interim Growth & Economic Development Director)

2. Approval of Resolution No. 2023-005, Adopting "Honor Avenue" and "Dignity Circle" as the street names for the Orchid Lake Apartment project. (23-14). (Public Works Director/Interim Growth & Economic Development Director)

3. Approve a Resolution Amending the FY23 Budget, BAF#23-033-A for the acceptance of a donation for a replacement clock, from Cocoa Rotary for Myrt Tharpe Square. (23-16). (Asst. to the CM/PIO)

4. Approval of a Resolution Amending the FY2023 Budget Accepting the Bureau of Justice Assistance FY2022 Bulletproof Vest Partnership Grant, BAF#23-032-A, in the amount of $1960 and Transfer the Match Budget to Account Number 001-2100-521.52-26 Project number GR2302. (23-18). (Chief of Police)

5. Approve Settlement Agreement between City of Cocoa and Villas of Cocoa, LLC. Case #2021-CA-02189. (23-2). (City Attorney)

6. Announcement of Council Member Goins to Attend the Florida Black Caucus Annual Conference from March 2, 2023 - March 3, 2023. (23-26). (Administrative Services Director)

7. Approve the prepayment of the final principal and interest debt service payment for the Fire Apparatus Note, Series 2014, and approve related BAF #23-036-IF to provider additional budget for the prepayment. (22-28). (Finance Director)

8. Approve a resolution amending the FY 2023 budget, BAF # 23-005-A to provide budget for the Bond 2020 Series interest, accrued for the last 15 days of the fiscal year. (23-3). (Finance Director)

9. Approve the FY 2022-2023 HOME Disbursement Agreement between the City of Cocoa and Brevard County in the amount of $490,259.14. (23-32). (Community Services Director)

10. Approval of BAF #23-030-A to Amend FY2023 budget in the Police Special Education Fund to Expend $10,000 for Police Personnel Training. (23-7). (Chief of Police)

(B) Multi-Year Contracts:

None.

*** MOTION by Deputy Mayor Hearn; Seconded by Councilmember Dyal, to approve the Consent Agenda.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

VI. Public Hearings:

1. Ordinance No. 15-2022: Second and Final Reading, a zoning text amendment to allow for printing, engraving, and related reproduction uses and craft breweries as special exception uses in the C-C and Cocoa Waterfront Overlay districts. (23-15). (Public Works Director/Interim Growth & Economic Development Director)

City Attorney Garganese read the Ordinance into the record for second and final reading:

ORDINANCE NO. 15-2022

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A, ARTICLE XI, SECTIONS 18 AND 22 OF THE ZONING ORDINANCE OF THE CITY OF COCOA; CHANGING THE LIST OF SPECIAL EXCEPTION USES IN THE CORE COMMERCIAL ZONING DISTRICT AND COCOA WATERFRONT OVERLAY DISTRICT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

Mayor Blake opened the hearing to the public. There being no questions or comments, the public portion of the hearing was closed.

* **Motion by Deputy Mayor Hearn; Seconded by Councilmember Goins, to approve Ordinance No. 15-2022 on Second and Final Reading.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

2. Ordinance No. 16-2022: Second and Final reading, Related to Amending Chapter 2, Administration, Article VII Police Officers' Retirement Plan Section 2-197, Pre-Retirement Death; Providing for incorporation into the Code; Providing for severability of provisions; Repealing all ordinances and resolutions in conflict herewith and providing an effective date. (23-9). (Administrative Services Director)

Attorney Garganese read the Ordinance into the record for second and final reading:

ORDINANCE NO. 16-2022

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE VII, POLICE OFFICERS' RETIREMENT PLAN, OF THE CODE OF ORDINANCES OF THE CITY OF COCOA BY AMENDING SECTION 2-197, PRE-RETIREMENT DEATH; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

Mayor Blake opened the hearing to the public. There being no questions or comments, the public portion of the hearing was closed.

* **Motion by Councilmember Dyal; Seconded by Councilmember Koss, to approve Ordinance No. 16-2022 on Second and Final Reading.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

VII. Council Business:

1. Consider the Appointment of Lisa Chance, Chris Davis, Josue Otero or Aurora Ramirez to fill a Regular member seat and two Alternate member seats for the Code Enforcement Board. (22-631). (Administrative Services Director)

Chris Davis, one of the applicants being considered for a position, wished to point out that he served on the Code Enforcement Board in Kentucky and thought he might be a good fit for the board.

Councilmember Goins nominated Chris Davis as the Regular member, Aurora Ramirez as the 1st Alternate and Josue Otero as the 2nd Alternate member.

* **MOTION by Councilmember Goins; Seconded by Councilmember Dyal, to appoint Chris Davis as the Regular member, Aurora Ramirez as the 1st Alternate and Josue Otero as the 2nd Alternate for discussion.**

Deputy Mayor Hearn wished to nominate Chris Davis as the Regular member, Lisa Chance as the 1st Alternate and Aurora Ramirez as the 2nd Alternate.

Councilmember Koss wished to nominate Josue Otero as the Regular member, Chris Davis as the 1st Alternate and Lisa Chance as the 2nd Alternate.

AYES: Blake, Dyal, Goins
NAYES: Hearn, Koss

THE MOTION CARRIED (3-2)

2. Consider the Appointment of five of the following applicants to fulfill vacancies on the Planning & Zoning Board: Chris Bankhead, Merrybeth Burgess, Tammy Carter, Ronald Chabot, Celeste Corrado, Tonya Davis, Frank Manfredi, Wesley Park, Katherine Stewart or Marcus Wheeler. (Administrative Services Director). (22-730). (Administrative Services Director)

Mayor Blake asked City Attorney Garganese if it would be permissible to allow each member of Council to nominate someone to sit on the board. In response, City Attorney Garganese noted that it is permissible if the majority of the Council agrees.

Nominations were made as follows:

Councilmember Koss: Celeste Corrado
Councilmember Dyal: Katherine Stewart
Councilmember Goins: Marcus Wheeler
Deputy Mayor Hearn: Merrybeth Burgess
Mayor Blake: Chris Bankhead; Wesley Park; Ron Chabot; Marcus Wheeler

Councilmember Goins nominated Ron Chabot as the 2nd Alternate member.

Ms. Gemmati pointed out that if Merrybeth Burgess becomes a Regular member than that would create a 1st Alternate member position that would need to be filled as well.

* **MOTION by Mayor Blake; Seconded by Councilmember Goins, to appoint Chris Bankhead, Wesley Park, Ron Chabot and Marcus Wheeler as Regular members.**

AYES: Blake, Hearn, Dyal, Goins
NAYES: Koss

THE MOTION CARRIED (4-1)

* **MOTION by Councilmember Dyal; Seconded by Mayor Blake, to appoint Katherine Stewart as the 2nd Alternate member.**

Councilmember Koss added that there are many great applicants, however there are some with related background experience that she would like to consider[2].

AYES: Blake, Hearn, Dyal, Goins

[2] Mayor Blake left the room at 7:53pm and returned at 7:55pm

NAYES: Koss

THE MOTION CARRIED (4-1)

3. Consider the reappointment of Todd Anderson as a Regular member on the Planning & Zoning Board. (23-39). (Administrative Services Director)

* **MOTION by Councilmember Dyal; Seconded by Deputy Mayor Hearn, to reappoint Todd Anderson through November 30, 2025[3].**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

4. Consider approval of a Resolution allowing an affordable housing land use on parcel 24-35-23-00-11 under Section 166.04151, Florida Statutes, subject to the zoning standards and requirements of the RU-2-15 zoning and other terms and conditions stated in the Resolution. (23-48). (Community Services Director)

Ms. Neuterman provided a brief background on the item.

Additionally, City Attorney Garganese wished to make a point of clarification to the exhibits attached to the item.

Kim Rezanka, 1290 US1, Rockledge, FL shared that she is here to answer any questions.

* **MOTION by Councilmember Dyal; Seconded by Councilmember Goins, to approve the Resolution.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

VIII. City Business:

1. Council approval to accept the Florida Department of State, Division of Historical Resources Special Category Grant (23.h.sc.100.023) in the amount of $301,000 ($150,500 Grant/$150,500 Match) for the replacement/repair of non-historic windows and exterior doors in the Leon and Jewel Collins Museum of African American History and Culture at the Harry T. Moore Center. Authorize the City Manager to execute the Agreement. (23-33). (Community Services Director)

[3] Councilmember Goins left the room at 7:56pm and returned at 7:58pm

*** MOTION by Councilmember Goins; Seconded by Councilmember Dyal, to approve the item.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

Multi-Year Contracts:

None.

IX. Informational Agenda:

1. FY 2023 Budget Adjustment Report. (23-10). (Finance Director)

2. Data showing the relation between the estimated and actual income and expenses to date. (23-11). (Finance Director)

3. Approved change orders to construction contracts that the City Council has authorized the City Manager, by resolution, to approve in excess of the City Manager's spending authority. (23-12). (Finance Director)

4. This is an informational agenda item regarding an error within account lines of BAF 22-133-A. The interfund transfers approved on 11/29/22 were missing several "transfer out" account transactions and BAF 22-133-A needed to be revised so the budget amounts included all accounts required to record an interfund transfer. (23-5). (Finance Director)

5. City Council Bi-Weekly Report (Contains all of December, 2022). (23-41). (City Manager)

X. Reports:

Ms. Neuterman provided background information on the grants the City has received. She shared that the Florida Historical Society has a show that airs on PBS called Florida Frontiers and the Leon and Jewel Collins Museum will be featured on an episode at the end of this month.

Additionally, there are several new exhibits with artifacts and audio/visual components. Staff will work on putting together a community event to showcase the museum.

Councilmember Koss suggested doing a soft opening on Juneteenth and a grand opening event in October. In response, Ms. Neuterman thought it was a great idea and will work with Delores McLaughlin to put something together.

Ms. Neuterman shared that staff is working to establish a workshop date to discuss the 60-day rent issue that was brought up a few months ago by Deputy Mayor Hearn. Staff will bring a date forward soon.

Ms. Senger noted that informational sessions will be done about the UpStart Cocoa Program on January 31st. One session will be done at 10am and one at 5pm.

Councilmember Koss gave a District 4 report. She shared that she attended a meeting with Elevate Brevard and learned that the Cocoa High School graduation rate dropped from 75% to 67%.

Councilmember Koss talked about the Clearlake Road transportation projects and shared information about the ridership for Clearlake construction bus stops. She also shared photos from the Brevard Museum train exhibit.

Additionally, she shared that on January 19, 2023 at the Titusville High School Performing Arts Center there will be a meeting about sewer and septic systems and the health of the Indian River Lagoon at 6pm.

Councilmember Koss wished to make a point of clarification related to comments made previously by Aleck Greenwood in regard to her FYI Newsletter and also about Angela Essing.

She also suggested staff put together an orientation for board members to review the City’s Comp Plan so they can become familiar with it because it is very important.

Councilmember Dyal talked about the Bike Parade in December and thought it was a great event and he had a lot of fun. He is looking forward to next year’s event and hoped everyone had a nice holiday season.

Deputy Mayor Hearn made a statement on behalf of one of his constituents. She wanted to thank the Police Department for cleaning up the loitering at the corner at Fiske and Peachtree Street.

He also shared information about Literacy Night at the end of January.

Councilmember Goins shared some pictures from an event he attended at Essence of Knowledge bookstore with Chief Collier.

Additionally, he shared photos from a trip he made to Daytona Beach where he participated in a tour with their Council. He noticed that they also offer a landscaping program similar to what the City of Cocoa's CRAs offer.

Councilmember Goins wished to offer an apology to the Council and stated that although he stands strong on the comments he made regarding the Brevard County Sheriff's Office he realizes he needs to be careful about what he says on social media and to remember that he is a representative of the City Council.

Mayor Blake shared pictures from the Bike Parade. He also MC'd an event at the Pastor Anniversary event at the Missionary Baptist Church on January 8, 2023. He shared information on the Memorial Worship Service at Greater St. Paul Missionary Baptist Church on January 15th at 6pm. He also mentioned the Peace March on Monday January 16th at 2:30pm.

He shared photos from the Cocoa High football team and congratulated them on their hard work. He pointed out that Cocoa High's Valedictorian has the opportunity to attend either Harvard or Yale and it is a great accomplishment.

Mayor Blake talked about the Homeless Memorial event at Matthew Hope Ministries.

Additionally, he mentioned that moving forward at all Space Coast League of Cities dinner meetings there will be paid security officers to offer proactive protection.

Mayor Blake would like the Council, for morale purposes, to support a breakfast or lunch event for staff.

XI. Adjournment:

* **MOTION by Councilmember Dyal; Seconded by Deputy Mayor Hearn, to adjourn the Regular meeting of January 10, 2023.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

The meeting adjourned at 8:46 p.m.

_____
Michael C. Blake, Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk
(Transcribed by M. Arsenault, Asst. City Clerk)

PUBLIC TRUST ADVISORS

Economic Update and Portfolio Strategy Review

John F Grady, Managing Director

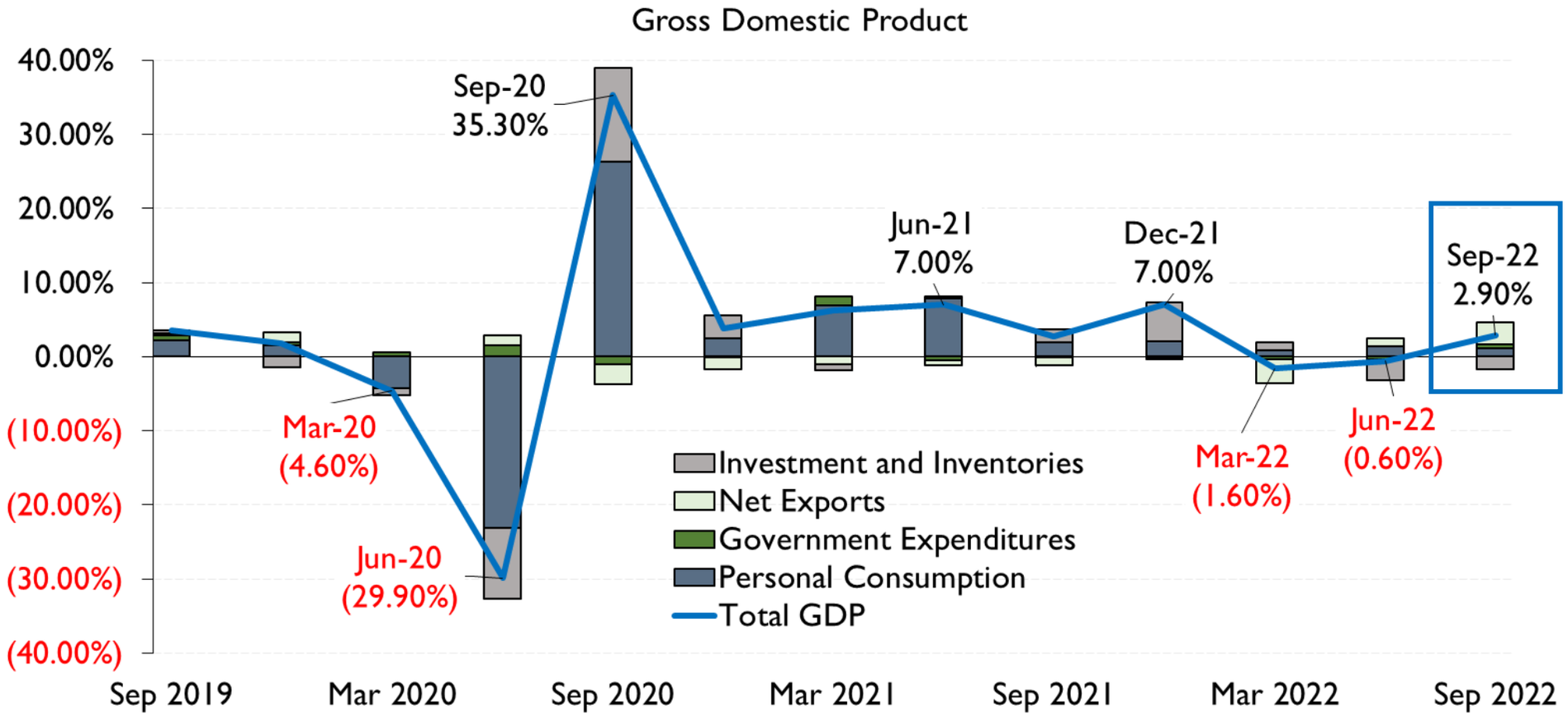
January 10, 2023

COCOA FLORIDA

Exhibit A - Public Trust Advisors Presentation

U.S. Gross Domestic Product

- The U.S. economy grew during the third quarter, primarily due to petroleum exports. This resulted in Net Exports growing 2.93%, the largest contribution in more than 22 years. Business spending contracted for the second consecutive quarter (-1.71%) and consumer expenditures growth grew at just 1.18%. Government spending grew nominally at 0.53%.

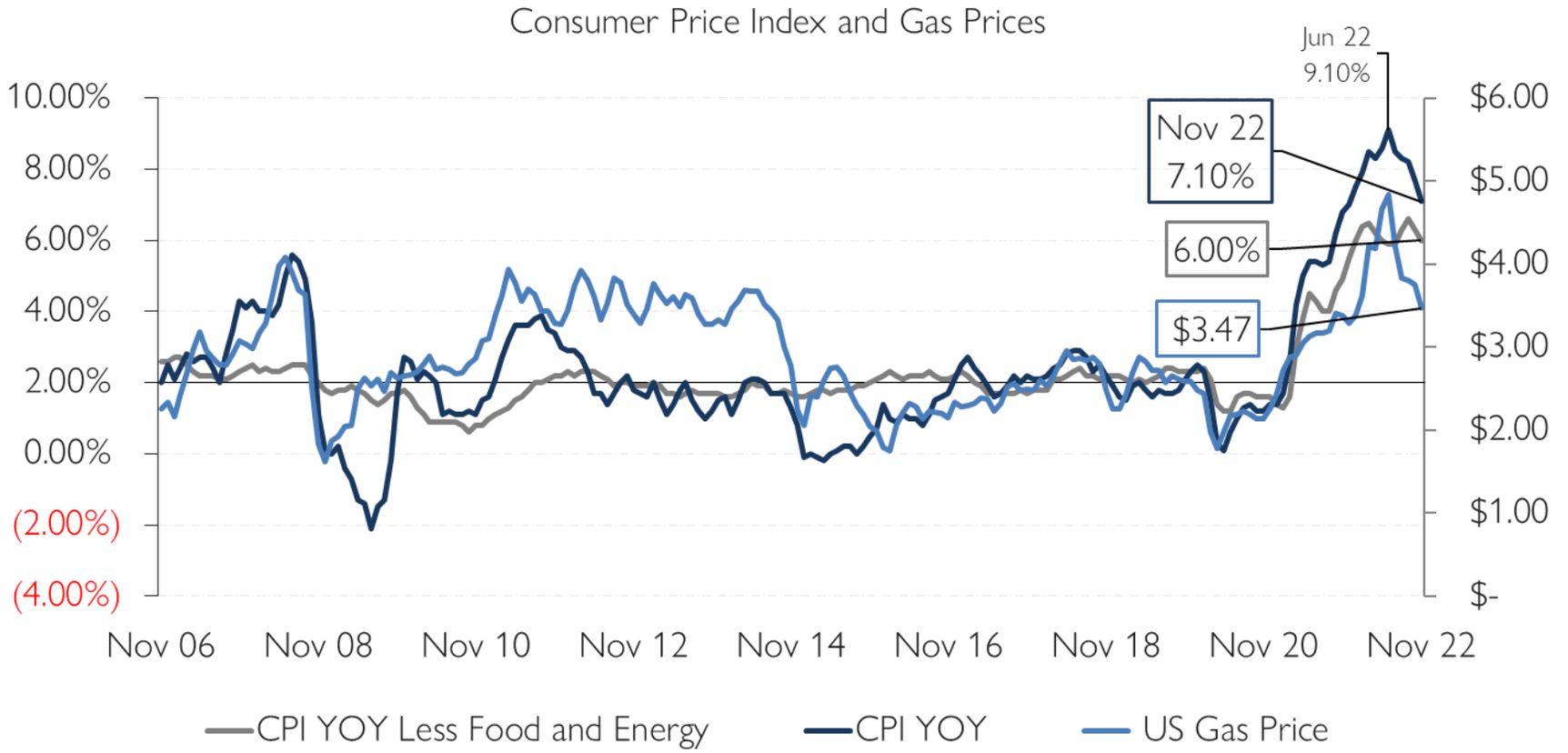


Source: Bloomberg, bea.gov

Public Trust Advisors 2022 ©

Inflation - CPI

- The year over year Consumer Price Index declined further in November to 7.1%, the lowest reading since January 2022. The Core index (Less Food and Energy) reading of 6.0% was 0.3% lower than October's figure.



Source: Bloomberg, bea.com

Mortgage Rates

- Mortgage rates dipped slightly in November to 6.67%, although remain near the highest levels since 2008.



Source: Bloomberg

Public Trust Advisors 2022 ©

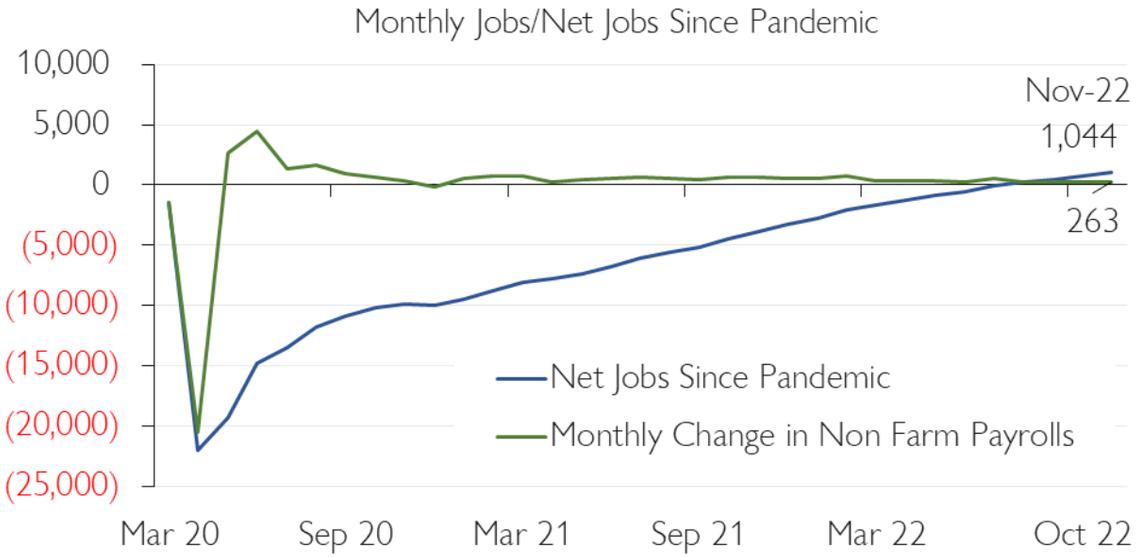
Jobs

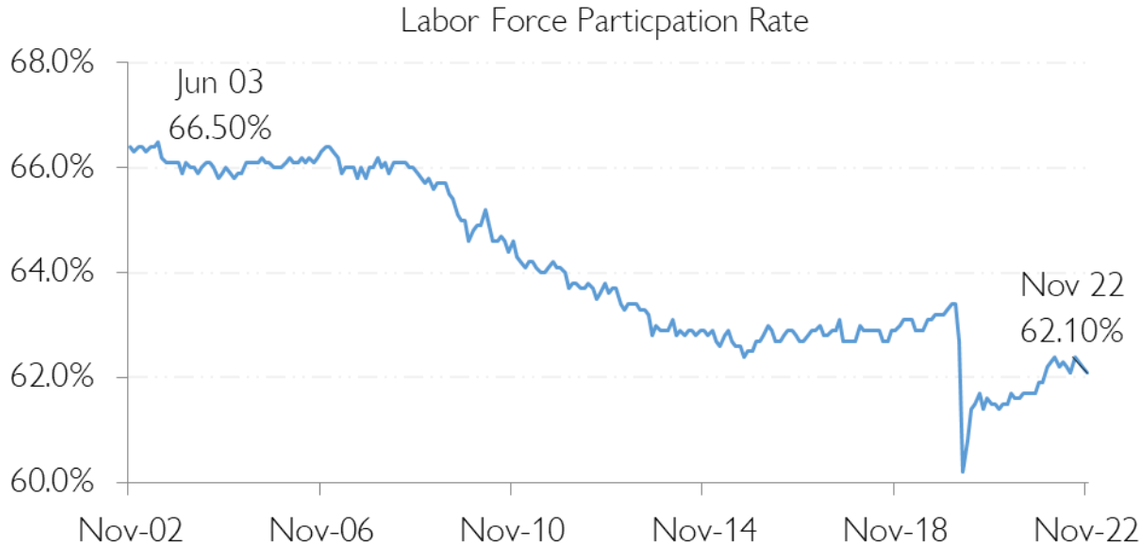
Job Growth continues into 4th Quarter

- More than 4.3mm jobs have been created in 2022, including 263k jobs created in November.
- Net jobs finally reached breakeven in August 2022, twenty-nine months after losing 22mm jobs in March and April of 2020.
- The Great Resignation continues as more than 4.2mm individuals are quitting jobs on a monthly basis. This is 1mm more per month than pre-pandemic levels.

Unemployment Levels Remain Low

- The national unemployment rate remains low at 3.5% through September. Florida is a full % lower at 2.5%.
- The labor force participation rate is persistently low at 62.1% in November, suggesting millions of working age people have still not re-entered the workforce





Source: Bloomberg, bea.com

Bloomberg Survey Forecast – January 2023

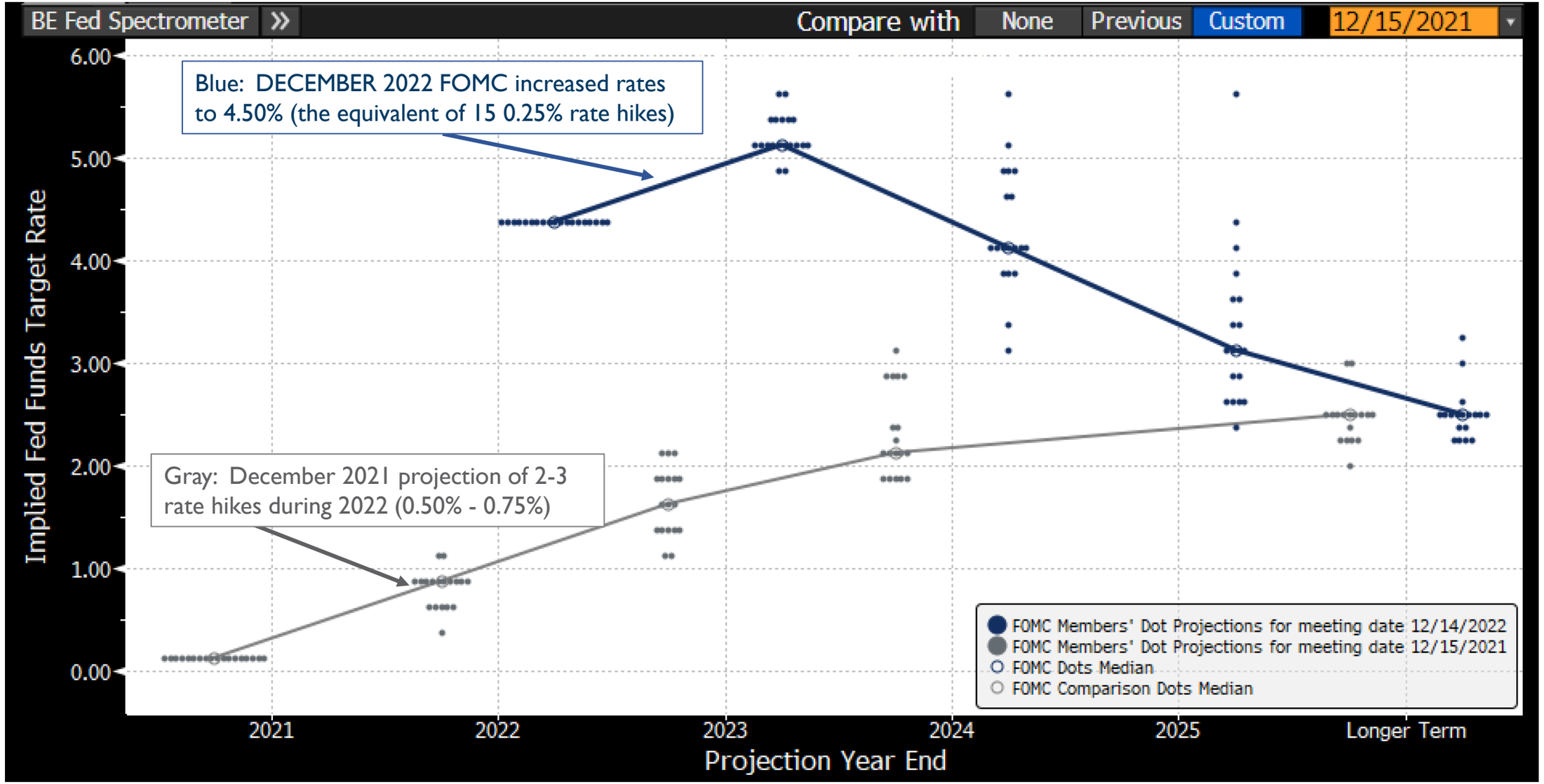
- Since May, 2022 GDP expectations have declined from more than 3.0% to the current estimate of 1.9%, while inflation expectations have increased to 8.0% for the year.

	Actual / Forecasts								Probability of Recession	65.0%
Indicator	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Economic Activity										
Real GDP (YoY%)	2.7	1.7	2.2	2.9	2.3	-2.8	5.9	1.9	0.3	1.3
Consumer Spending ...	3.3	2.5	2.4	2.9	2.0	-3.0	8.3	2.3	1.0	1.4
Government Spendin...	1.8	2.0	0.4	1.7	3.3	2.6	0.6	-0.8	1.1	1.0
Private Investment ...	5.5	-1.0	4.1	5.7	2.8	-5.3	9.0	3.7	-2.4	1.7
Exports (YoY%)	0.3	0.4	4.3	2.8	0.5	-13.2	6.1	7.3	2.2	2.2
Imports (YoY%)	5.2	1.5	4.5	4.2	1.1	-9.0	14.1	8.7	0.3	1.7
Industrial Production (Yo...	-1.4	-2.2	1.4	3.2	-0.7	-7.0	5.3	4.1	-0.4	1.0
Price Indices										
CPI (YoY%)	0.1	1.3	2.1	2.5	1.8	1.2	4.7	8.0	4.0	2.5
PCE Price Index (YoY%)	0.2	1.0	1.8	2.1	1.5	1.1	4.0	6.3	3.5	2.3

Source: Bloomberg, bea.cm

Public Trust Advisors 2022 ©

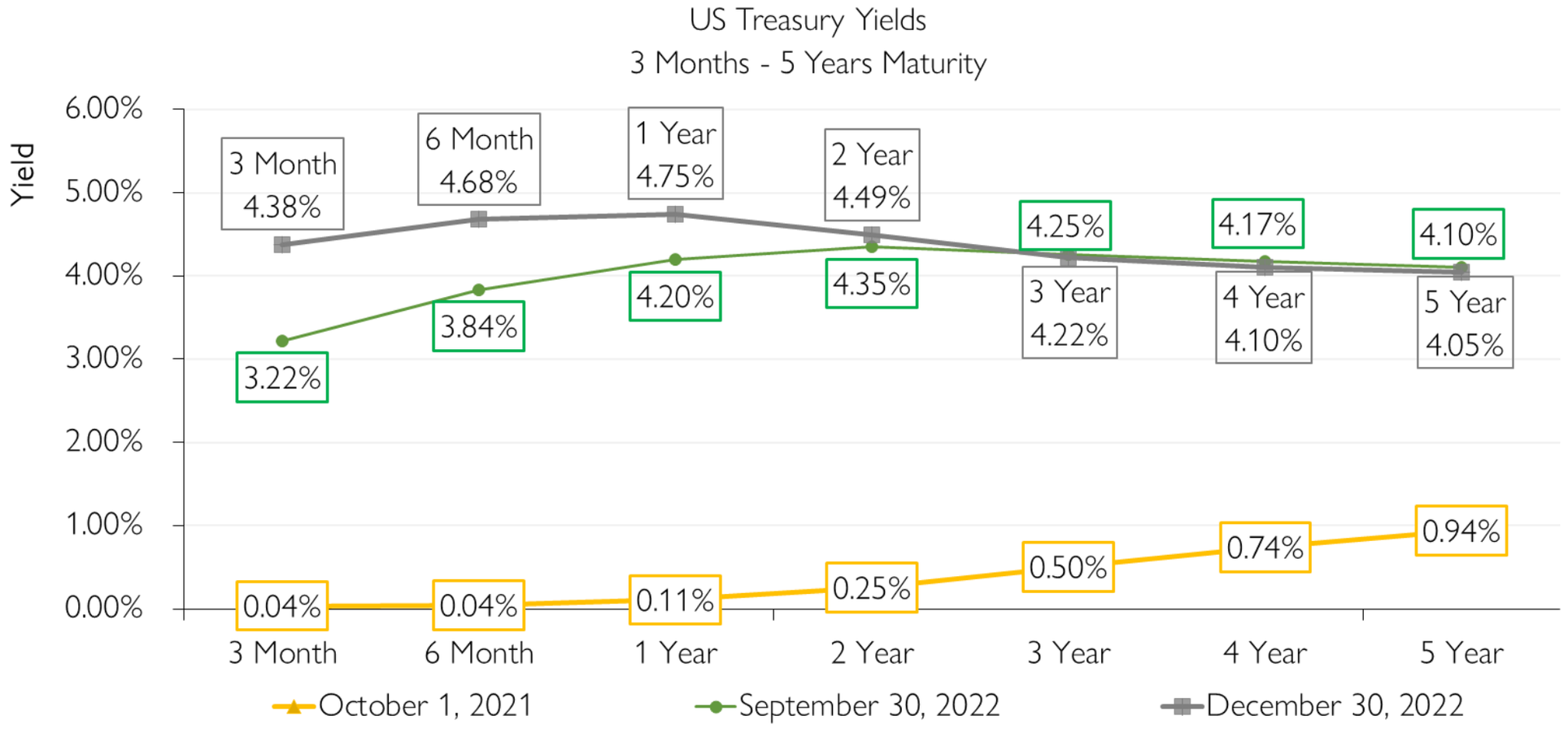
FOMC Dot Plot – December 2021 vs. December 2022



Source: Bloomberg - Please reference disclosure page for additional information.

Inflation takes hold….Yield Curve inverts in 2nd half of 2022

- Short term yields continue to increase with FOMC rate hike expectations. Meanwhile, longer term rates have declined from recent peaks as odds of an economic slowdown/recession increase.



Source: Bloomberg

City of Cocoa's Investment Program Review

- ✓ The City maintained an actively managed investment program during Fiscal year 2022 and the maturity structure for each portfolio is custom tailored based on the following criteria:
  - ✓ Sources and uses of funds
  - ✓ Anticipated timing of expenditures
  - ✓ Investment policy statement objectives and parameters
  - ✓ Current market conditions and historical performance
- ✓ This investment strategy has the primary focus on Safety of principal as the primary objective, providing daily liquidity from bank balances and local government investment pools, and the potential for increased earnings from the longer term investment portfolios.
- ✓ This multiple duration investment approach minimizes risks in rising and declining interest rate environments with the primary objective of safety of principal by investing in highly rated fixed income securities.
- ✓ We collaborate with the City's Finance Director and team to determine optimal investment options based on cash flows, investment policy and Fl State Statutes, and current market conditions.
- ✓ The investment program is compliant with the City's investment policy and with Florida State Statutes.

Operating Portfolio Strategy Update

Investment Strategy and Maturity Structure

- The Operating Portfolio provides funding over multiple fiscal years. The portfolio is structured with maturities between one and five years. Funds are undesignated.
- The target duration is approximately 2.5 years
- The portfolio is managed as a with 1-5 year strategy, primarily using maturities between one and five years.

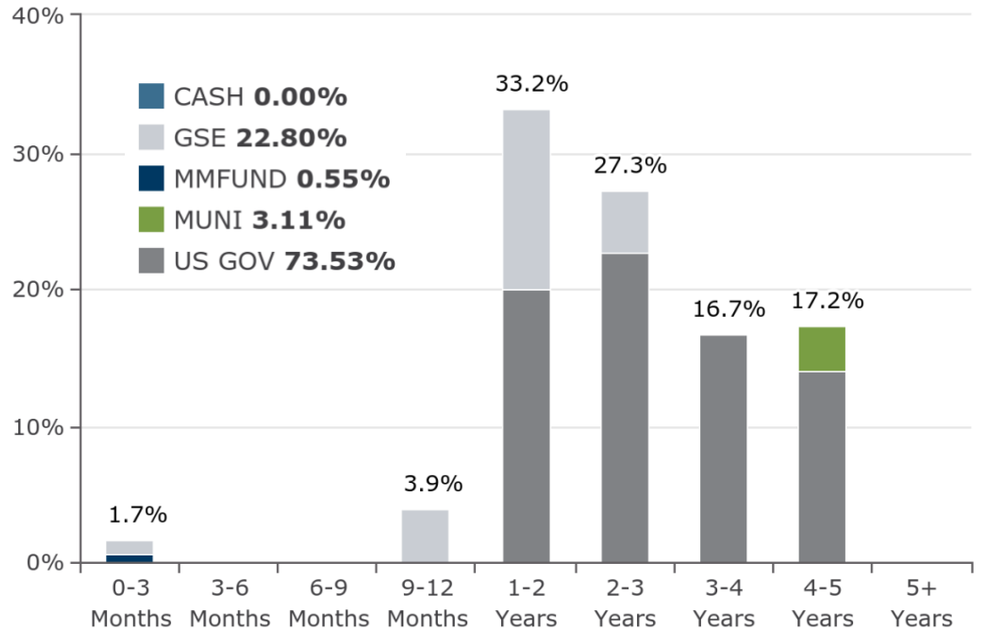
Asset Allocation and Diversification

- The portfolio is well diversified, 73.5% in UST, 22.8% in GSE, 3.1% in municipal bonds and 0.6% in MMF.
- The maturity structure of the portfolio provides the opportunity to invest in higher yielding securities as interest rates have increased significantly during 2022.

Portfolio Summary

	09/30/21	09/30/22
Duration	2.603	2.483
Years to Effective Maturity	2.638	2.592
Years to Final Maturity	2.676	2.605
Coupon Rate	0.710	1.137
Book Yield	0.410	1.074
Market Yield	0.468	4.237

Maturity Distribution by Type



Source: Public Trust, Clearwater Analytics

Reserves Portfolio Strategy Update

Investment Strategy and Maturity Structure

- The Reserves Portfolio is structured based on requirements defined in the bond indenture for the City's outstanding debt per debt issuance.
- The target duration is approximately 2.5 years
- The portfolio is managed as a with 1-5 year strategy, primarily using maturities between one and five years.

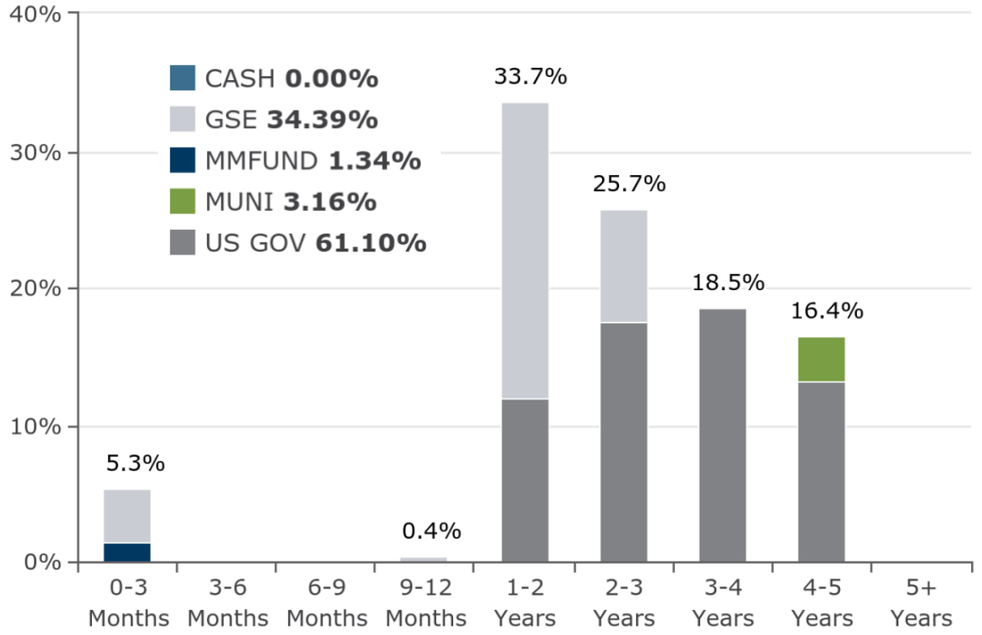
Asset Allocation and Diversification

- The portfolio is well diversified, 61.1% in UST, 34.4% in GSE, 3.2% in municipal bonds and 1.3% in MMF.
- The maturity structure of the portfolio provides the opportunity to invest in higher yielding securities as interest rates have increased significantly during 2022.

Portfolio Summary

	09/30/21	09/30/22
Duration	2.587	2.455
Years to Effective Maturity	2.623	2.563
Years to Final Maturity	2.722	2.619
Coupon Rate	0.769	1.263
Book Yield	0.492	1.059
Market Yield	0.469	4.208

Maturity Distribution by Type



Source: Public Trust, Clearwater Analytics

Public Trust Advisors 2022 ©

Restricted Portfolio Strategy Update

Investment Strategy and Maturity Structure

- The Restricted Portfolio is restricted cash that is held long-term. These funds are restricted and held long-term.
- The target duration is approximately 2.5 years
- The portfolio is managed as a with 1-5 year strategy, primarily using maturities between one and five years.

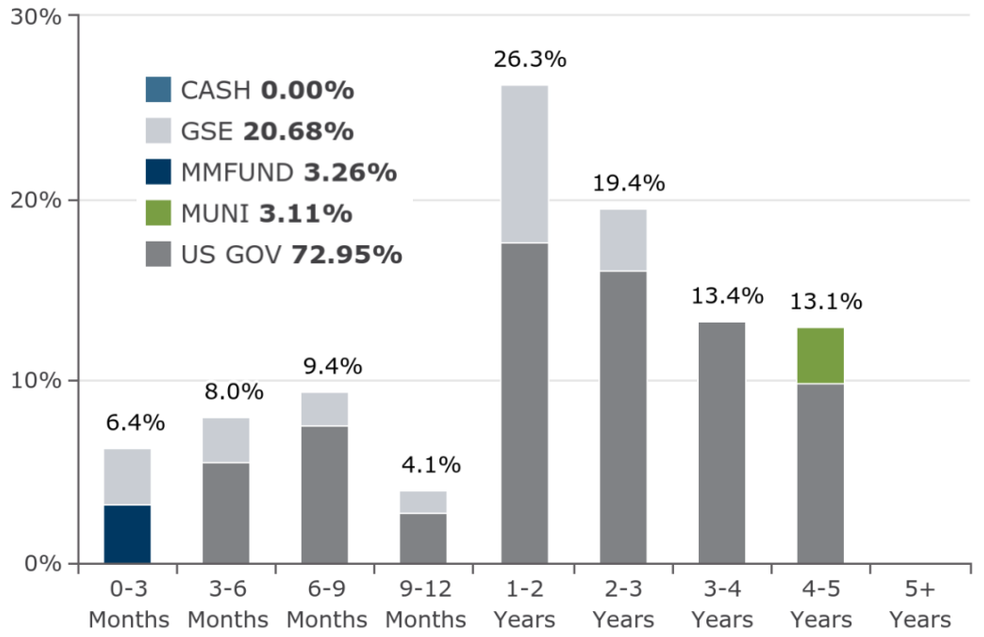
Asset Allocation and Diversification

- The portfolio is well diversified, 73.0% in UST, 20.7% in GSE, 3.1% in municipal bonds and 3.3% in MMF.
- The maturity structure of the portfolio provides the opportunity to invest in higher yielding securities as interest rates have increased significantly during 2022.

Portfolio Summary

	09/30/21	09/30/22
Duration	2.129	1.983
Years to Effective Maturity	2.155	2.068
Years to Final Maturity	2.186	2.083
Coupon Rate	0.474	0.954
Book Yield	0.289	0.844
Market Yield	0.372	4.086

Maturity Distribution by Type



Source: Public Trust, Clearwater Analytics

Aggregate Asset Allocation – September 30, 2022

Security Distribution	September 30, 2022 Portfolio Balance	Portfolio Allocation	Book Yield	Permitted by Policy*	Compliant
Cash	$ 91,617,079.29	64.67%	0.49%	100.00%	YES
LGIP	523,915.24	0.37%	2.61%	25.00%	YES
U.S. Treasury Notes	34,708,950.34	24.50%	1.13%	80.00%	YES
FNMA	1,641,590.62	1.16%	0.73%	40.00%	YES
FHLMC	6,804,671.31	4.80%	0.46%	40.00%	YES
FFCB	124,512.44	0.09%	0.22%	40.00%	YES
FHLB	4,110,333.64	2.90%	0.28%	40.00%	YES
Fed Instrumentality Subtotal	$ 12,681,108.01	8.95%	0.43%	80.00%	YES
Money Market Funds	598,160.09	0.42%	2.46%	100.00%	YES
Total Portfolio Market Value	$ 141,677,072.90	100.00%	0.69%		

Source: Public Trust Advisors, City of Cocoa

Public Trust Advisors 2022 ©

City of Cocoa's Investment Program Review

- ✓ The Federal Open Market Committee (FOMC) increased the Federal Funds overnight rate from zero to 3.25% in six months from March 2022 – September 2022 (currently 4.5%). For comparison, the FOMC raised the overnight rate from zero to 0.25% in nine months during the 2015-2018 cycle and reached a peak of 2.5% over a three year period. This has been the most aggressive monetary policy in more than three decades.

- ✓ These rate increases have resulted in an increase in overnight interest rates (LGIPs and MMF strategies) of more than 300 basis points (3.0%) through September 2022, and are currently between 4.50%.

- ✓ Longer term US Treasury rates have also increased significantly during this period. The two year US Treasury was 4.28% on September 30th 2022 compared to 0.28% on September 30th 2021 (400 basis points!). The two year U.S. Treasury was 4.49% on December 31, 2022.

- ✓ The current interest rate environment has provided the opportunity for reinvestment in yields as high as 4.5% - 5.0%, the highest yields since 2007. These securities will provide much higher income compared to the securities purchased during the lower interest rate environment.

- ✓ In October the City opened FLCLASS LGIP investment accounts with a yield of 4.51% (December 31st) that the City invests in for daily liquidity. This investment option is AAA rated and provides higher interest earnings compared to the bank deposit rate and provides the same daily liquidity. FLCLASS is benefitting from the significant rise in rates with rates increasing almost daily.

- ✓ City's Operating, Reserve and Restricted portfolios for core and reserve assets are benefitting with the reinvestments of securities that will provide higher income for the next 2-4.5 years. These two duration strategies are complementary and provide benefits in both rising and declining rate environments.

DISCLOSURES

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Legislation Details (With Text)

File #:	23-185	**Version:**	1	**Name:**	
Type:	Minutes			**Status:**	Minutes
File created:	3/8/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	Approve the Minutes of the Regular Meeting of February 14, 2023, as written or with amendments.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	02-14-2023 Minutes ADA.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: March 8, 2023
Agenda Date: March 14, 2023
Prepared By: Carie Shealy, City Clerk
Through:
Requested Action:
Approve the Minutes of the Regular Meeting of February 14, 2023, as written or with amendments.

BACKGROUND:

na

STRATEGIC PLAN CONNECTION:

na

BUDGETARY IMPACT:

na

PREVIOUS ACTION:

The City Council approves the minutes of all its meetings following transcription.

RECOMMENDED MOTION:

Approve the Minutes of the Regular Meeting of February 14, 2023, as written or with amendments.

MINUTES
City of Cocoa
Regular Meeting of The City Council

February 14, 2023

A Regular City Council Meeting was held on Tuesday, February 14, 2023, in Cocoa City Hall, in City Council Chambers, located at 65 Stone Street, in Cocoa, Florida, 32922, as publicly noticed.

I. Opening Matters:

Mayor Blake called the meeting to order at 6:02 p.m.

Members of Metropolitan Missionary Baptist Church provided the invocation and Mr. Livingston led the assembly in the Pledge of Allegiance to the Flag of the United States of America.

The City Clerk took the roll.

PRESENT:	Michael C. Blake	Mayor
	Lavander Hearn	Deputy Mayor
	Rip Dyal	Councilmember
	Alex Goins	Councilmember
	Lorraine Koss	Councilmember
	Anthony Garganese	City Attorney
	Stockton Whitten	City Manager
	Carie Shealy	City Clerk

OTHER STAFF MEMBERS PRESENT:

Jack Walsh, Utilities Director; Charlene Neuterman, Community Services Director; Samantha Senger, Director of Communication & Economic Development; Evander Collier, Chief of Police; Rebecca Bowman, Finance Director; Jonathan Lamm, Fire Chief; Rob Beach, Chief Technology Officer; Bryant Smith, Public Works Director; Brian Dolan, Fire Inspector; and Lisa Richardson, Helpdesk Support Tech.

II. Approval of Agenda and Minutes:

1. Agenda: Regular Meeting of February 14, 2023. (23-82)

*** MOTION by Mayor Blake; Seconded by Councilmember Dyal, to Amend the agenda for the Regular meeting of February 14, 2023, with the following amendment, to add Council Business Item VII.5 regarding Pinecrest and Evergreen Cemeteries.**

Chief Lamm introduced Brian Dolan as the new Fire Inspector. Chief Lamm provided his background and noted he was also a fire fighter/paramedic. Mr. Dolan thanked Council and looked forward to working with the City.

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

2. Minutes: (a) Regular Meeting of September 27, 2022 (23-83)
(b) Regular Meeting of October 25, 2022 (23-84)

*** MOTION by Councilmember Goins; Seconded by Councilmember Dyal, to approve the Minutes for the Regular meeting of September 27, 2022 and the Regular meeting of October 25, 2022 as written.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

III. Awards and Presentations:

1. Proclamation: Proclaiming the Month of February, 2023 as "Black History Month". (23-87). (Mayor Blake)

Mayor Blake read the Proclamation into the record.

2. Proclamation: Proclaiming "Stone Funeral Home 100 Years of Service to the City of Cocoa". (23-103). (Councilmember Goins)

Councilmember Goins read the Proclamation into the record. Members of the Stone Family were in attendance to accept the proclamation. Jan Stone thanked the City for their support and noted how grateful they are to serve the City of Cocoa.

IV. Delegations:

Sara Ann Conkling, Cocoa resident, mentioned the upcoming budget season and requested that an emphasis be placed on the elderly and their needs in Cocoa.

She asked for more funding in the home rehabilitation fund and stated that only three to four homes can be done per year due to the waiting list. She was also interested in extending the Route 6 bus service and there are no city parks in District 4. Lastly, she would like a farmer's market where people who shop could double their food stamps and for the fire assessment fee to be lowered. She has a modest home and has a lot of fees.

Councilmember Goins requested that Ms. Conkling reach out to Representative Sirois as well.

J.B. Dennis, National Action Network, spoke about Resolution No. 2018-097 regarding the establishment of the Police Community Relations Advisory Board. A survey was done and most were not aware that this board exists. He asked that this board be advertised like all other City meetings.

Aleck Greenwood, Cocoa resident, talked about the history of Council and that in the mid-1990's he served on Council and the majority of this Council are long term residents of the City. At one time there were four women mayors, and a council group that consisted of three women and two men, and during those times he never witnessed an issue of racism or feminism or lack of it. He shared that what he has seen in the last two years is shocking and hoped that people would think about this. He has seen the bashing of staff members; two apologies have been given and one is still pending. The Mayor has been accused of how he treats women, the attorney does not move fast enough, and now the Fire Chief, Police Chief and City Manager. He asked why this is happening and feels these things need to be addressed.

John Raffaelli, Cocoa resident, advised he was in attendance to praise the powers that be. He just finished a shift at Matthews Hope and Family Promise. He is thankful to live in a City where they are working together to have resources here. He further praised the Police Chief for the new policies and changes that have been put into effect. He encouraged him that if the criticism is not constructive to ignore it.

Theresa Clifton, Brevard Humane Society, invited all to Mardi Gras Paws in the Park on Saturday, February 18th form 10 am until 3 pm. Additionally, they have grant money for the spaying and neutering of cats and dogs. She was happy to see positive things tonight and provided Council with information on the possibility of a dog park in the community. She appreciates the City's support and noted that

it was a great accomplishment for the Stone Funeral Home and their one hundred years of service in Cocoa.

Jackie Isom, Cocoa resident, stated that two years ago she was in a scavenger hunt for Black History Month and there was an area that should have been marked with a plaque for the Richard A. Stone historical district. She pointed out that the address is 121-304 Stone Street, near St. Paul and Mt. Moriah and asked if a plaque could be placed there so that everyone knows where it is located. There are many people in the area who are not aware that it exists.

V. Consent Agenda:

(A) General Consent Items:

1. Approve a Resolution Amending the FY2023 Budget, BAF 23-040-T, transferring a portion of the SLFRF funds allocated to an IT Server Upgrade (AR4SRV) to another Server Upgrade (AR23SH) and Fiber Ring Improvements (AR4NG), and also transferring allocated funds into the correct SLFRF Capital Account - Infrastructure and IT Hardware. Included in the Budget Amendment, is a Budget Transfer within the General Fund, from a Capital Hardware Account (IT23SH), to a Repairs and Maintenance Operating Account. (23-66). (Chief Information Officer)

2. Approve Amendment #3 of Purchase Agreements to RFQ-17-16-COC, Continuing Service Agreements with DRMP, Inc. and Mead & Hunt, Inc. for Engineering Services for Design, Permitting, and Services During Construction of Utility Conveyance System Upgrades & Expansion. (23-67). (Utilities Director)

3. Approve Danella Construction Corporation of Florida, Inc. and Morse Communications, Inc. as the selected vendors for award of Invitation to Bid ITB# B-23-05-COC, Fiber Optic/Multi-Pair Network Cable, Equipment, Materials, Supplies, Installation, and Maintenance. Authorize the City Manager to execute purchasing contracts with Danella Construction Corporation of Florida, Inc. and Morse Communications, Inc. in response to ITB# B23-05-COC. (23-88). (Chief Technology Officer)

4. Approve a Resolution Waiving the Competitive Bidding Process for the Purpose of Making an Exemption to Competitive Purchase through Barney’s Pumps, Lakeland, Florida for two (2) HOMA Submersible Pumps for Lift Stations 17 and

19; Approve Change Order #1 to Purchase Order #80427 with Barney's Pumps. (23-96). (Utilities Director)

5. Approval of the Requested Pay Plan changes for Fiscal Year 2023 and Approve a Resolution Amending the Fiscal Year 2023 Budget, BAF#23-039-A, allocating funds to new Divisions within the Growth and Economic Development Department, from the City Managers Department. (23-101). (Administrative Services Director)

6. Announcement of Mayor Blake, Councilman Goins and Councilwoman Koss to Attend the Legislative Action Days from April 3, 2023 - April 5, 2023. (23-102). (Administrative Services Director)

(B) Multi-Year Contracts:

7. Approve Participation in a Multi-Year Cooperative Purchase Agreement with VacVision Environmental LLC (A Vortex Company) for Manhole Rehabilitation Services Utilizing the HGAC (Houston-Galveston Area Council) National Cooperative Purchasing Contract No. TP07-18 Effective July 1, 2018 through June 29, 2021, Renewed Through June 30, 2023; To Approve a Resolution Amending the FY2023 Budget, BAF No. 23-038-IFT; To Authorize the City Manager to Execute Any Annual Renewal Amendments Under the Original Contract. (23-37). (Utilities Director)

8. Approve a Multi-Year Piggyback Agreement with Insituform Technologies, LLC for Cured in Place Pipe (CIPP) Rehabilitation Services and Sanitary Sewer Mid-Term Cleaning & CCTV Inspections of Main Line Sewers Utilizing the Clay County Utility Authority Bid No. 18/19-A7 effective June 18, 2022 through June 18, 2024; To Authorize the City Manager to Execute Any Annual Renewal Amendments Under the Original Contract. (23-38). (Utilities Director)

9. Approve a Multi-Year Piggyback agreement with PFM Financial Advisors, LLC, Orlando, FL based on Contract No. 22-38BK with the City of Sarasota, FL. Authorize the City Manager to Execute Any Annual Renewal or Amendments. (23-80). (Finance Director)

*** MOTION by Councilmember Dyal; Seconded by Councilmember Goins, to approve the Consent agenda.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

VI. Public Hearings:

None.

VII. Council Business:

1. Approve the current Code Enforcement Lien Reduction for the property located at 24-36-32-27-*-3 & 24-36-32-27-*-5, the Code Enforcement Board recommended that the lien be reduced to $1,000.00, staff recommended it be reduced to cost $3,592.85. The Code Board reduced the amount to $1,000.00 with no discussion. Staff recommendation is $3,592.85. (23-69). (Chief of Police)

* **MOTION by Mayor Blake; Seconded by Councilmember Koss, to approve staff's recommendation to reduce the lien to $3,592.85.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

2. Approve the current Code Enforcement Lien for the property located at 327 Belmont, be reduced to $960.55 as recommended by the Code Enforcement Board. (23-70). (Chief of Police)

* **MOTION by Councilmember Dyal; Seconded by Mayor Blake, to approve the Code Enforcement Board's recommendation to reduce the lien to $960.55.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

3. Consider the reappointment of Aldon Bookhardt to the Police Advisory Board through November, 2026. (23-90). (Administrative Services Director)

* **MOTION by Councilmember Koss; Seconded by Mayor Blake, to approve the reappointment of Aldon Bookhardt to the Police Advisory Board through November, 2026.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

4. Consider the appointment of Barbie Thrower to the Police Advisory Board through November, 2026. (23-93). (Administrative Services Director)

Barbie Thrower spoke in regards to her application and shared that she has spent most of her time in the City, as she runs Space Coast Recovery. They also have a transition home on Peachtree Street. She further explained they are in the

process of getting their property on Lake Drive and a lot next door annexed into the City. She has a passion for the City and their agency saves lives in the City and she would love to serve on the board.

Councilmember Goins explained that Ms. Thrower was his appointee. He provided a brief history of the District 1 seat on the Board and he feels that she is an easy selection because of what she does. He believes that she would bring a different perspective to the Board and appreciates her willingness to serve.

* **MOTION by Councilmember Goins; Seconded by Councilmember Dyal, to approve the appointment of Barbie Thrower to the Police Advisory Board through November, 2026, for discussion.**

Councilmember Koss asked for clarification on the residency requirements and in response, Attorney Garganese pointed out that the resolution establishing this board allows Council to appoint a CEO of a corporation as long as they have substantial operation in the City. He further advised that this would not apply to any other board, as it is a special requirement for the Police Advisory Board. It is a diverse board, as Councilmember Goins noted.

Councilmember Goins added that before this item was placed on the agenda, the City Clerk and City Attorney made sure that all of the qualifications were met.

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

5. City Council direction is needed regarding tax deed sales for the Pinecrest and Evergreen Cemeteries. (City Manager)

City Attorney Garganese provided a background on the Pinecrest and Evergreen cemeteries and advised that in the last couple of days it has become known that there was a tax deed sale on a few of the properties. The basis for the sale is several years of outstanding stormwater and fire assessment fees. This presents an issue and the City Manager felt that this rose to a level of policy decision so that several options could be considered and he reviewed those options in detail. He further noted that this was not the first time that the City has taken steps to acquire a cemetery and he provided brief histories of the Hilltop and Cocoa Cemeteries.

* **MOTION by Mayor Blake; Seconded by Deputy Mayor Hearn, to go with Option #2, to Bid at Sale to Acquire Property, for discussion.**

Discussion was held on eminent domain and bid amounts. City Attorney Garganese pointed out that bid sales are now done electronically and some do not know the whole context of the properties they are bidding on.

Gina Fadely, Cocoa resident, stated that in summary this is all stormwater assessments and the costs of the assessments are what brought this to the tax deed sale. All the City needs to do to stop the sale is to complete a correction form. She is concerned about those bidding out of state and requested that the correction form be mailed to them.

Further discussion was held on eminent domain and options that were available.

City Manager Whitten reiterated Ms. Fadely's concerns and in order to take it out of the sale would be Option #1 and then the City Attorney could explore eminent domain. He recommended Option #1 and then explore Eminent Domain.

* **MOTION AMENDED bv Mayor Blake; Seconded by Deputy Mayor Hearn, to go with Option #1 and then allow the City Attorney to explore Eminent Domain.**

City Manager Whitten advised that the City could put a bid out of around $10,000 on each and see if anyone reacts.

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

VIII. City Business:

1. Approve to terminate the Memorandum of Understanding (MOU) for the Intergovernmental Radio Communication Program 800 MHz Advisory Committee entered into on April 10th, 2018. (23-68). (Fire Chief)

Chief Lamm explained the item and noted that the new committee will be codified in the User Group Agreement; however, they need to dissolve the current committee.

* **MOTION by Mayor Blake; Seconded by Councilmember Dyal, to approve the item.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

Multi-Year Contracts:

None.

IX. Informational Agenda:

None.

X. Reports:

Gregg Stoll, TAC/CAC representative, provided an update on FDOT projects, including the SR 524 widening project and Clearlake Road widening project. She further mentioned the Clearlake Road Safety Project, from SR 520 to Michigan Avenue. Additionally, he has been reviewing the plans for SCAT bus stops and has been working with Abigail Morgan in Public Works to ensure that the City has appropriate pans and areas for benches and shelters and provided locations for a few of them.

Mr. Walsh announced that in March they would be changing the disinfection in the water from March 3-23, 2023, like they did last year and notifications are going out in bills, on the City's website and on social media. This will be done for about two weeks and he provided an explanation as to why it is done.

Attorney Garganese stated that in 2018 the City was sued by Lawrence Sinclair and the City prevailed in that lawsuit. It was dismissed and the Court awarded a judgement to the City in excess of $130,000 for reimbursement of fees and costs.

Councilmember Dyal advised that Mardi Gras was coming up and anyone wishing to ride on the truck needed to fill out a waiver.

Councilmember Koss spoke about doing a "point in time" inventory for the homeless and gave a shout out to Erica Jackson, with Open Door Concierge. This was different than she has done before. Erica grew up in Cocoa and they went to places where for one reason or another others would not be able to go. It was eye opening and she was profoundly struck at the image of a father preparing his ten-year old daughter for school. This is profoundly sad but she is glad they are doing things out there to help with those situations.

She mentioned her attendance at Captain Ed's Celebration of Life and noted it was a nice ceremony. Everyone has a story about him and she shared her story. He taught her perspective, not to take herself so seriously and that there will always be another challenge on another day.

Lastly, she heard that Shirley Lanni's son had passed away so she sent her thoughts and prayers to her.

Councilmember Goins shared photos of the AEDU and thought it was innovative and a lot of businesses were represented in the community. He spoke about the Seniors at Lunch Program at the Joe Lee Smith Center and they are at risk of losing the program due to lack of numbers. It is from 10 a.m. until 2 p.m., Monday through Friday at the Joe Lee Smith Center.

He pointed out that Cocoa High School hosted a literacy night and he, along with Mayor Blake, Deputy Mayor Hearn, and Councilmember Koss attended and read to the children.

He commended the Chief for being transparent in the community and that the Chief's Watch events were good and good conversation was being held.

Lastly, Councilmember Goins mentioned C.J. Gardner-Johnson who was a part of the Superbowl and this is the third year that someone from Cocoa High School has been in the Superbowl. He asked for a Key to the City to be done in recognition of him. He played at Cocoa High School, the University of Florida, was drafted by the Saints and how plays for the Eagles.

* **CONSENSUS AMONG COUNCIL FOR A KEY TO THE CITY TO BE GIVEN TO C.J. GARDNER-JOHNSON.**

Deputy Mayor Hearn announced that there would be a cemetery cleanup in honor of Black History Month at the Hilltop Cemetery on Saturday, February 18th from 9 a.m. until 2 p.m. He pointed out that the times may change.

Mayor Blake believes that once a month a site/area should be designated for cleanup.

Mayor Blake shared photos of the Valedictorian and Salutatorian for the Class of 2023 at Cocoa High as it is the first time in history that both are African Americans at the school.

He showed photos of Halle Kearns and Clay Walker at the concert in Riverfront Park, and photos of Emma Jewel Charter Academy where they acknowledged students for academic excellence. They had a grand opening of Spinners Laundry Mat and he attended a Grandparents Day celebration at Trinity Lutheran Church in Cocoa. Lastly, he shared that there is a scam going around that says it is a notice from the tax collector. He asked all to be cautious if they receive this.

In closing, Mayor Blake announced that there are some legislative bills out there that he will give more information on at the next meeting. He wants Council to be aware as well since they will be going to Tallahassee for Legislative Action Days. He asked that citizens be aware as well and to call their representatives.

The Benediction was given by Pastor Steve Brock, with Metropolitan Missionary Baptist Church.

XI. Adjournment:

*** MOTION by Councilmember Dyal; Seconded by Mayor Blake, to adjourn the Regular meeting of February 14, 2023.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

The meeting adjourned at 7:51 p.m.

_____

Michael C. Blake, Mayor

ATTEST:

_____

Carie Shealy, MMC, City Clerk

Legislation Details (With Text)

File #:	23-171	**Version:**	1	**Name:**	
Type:	Awards/Presentations			**Status:**	Agenda Ready
File created:	3/2/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	Key to the City Presentation to Neely J. Dunn. (Mayor Blake)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:					

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: March 2, 2023
Agenda Date: March 14, 2023
Prepared By: Carie Shealy, City Clerk
Through:
Requested Action:
Key to the City Presentation to Neely J. Dunn

BACKGROUND:

na

STRATEGIC PLAN CONNECTION:

na

BUDGETARY IMPACT:

na

PREVIOUS ACTION:

na

RECOMMENDED MOTION:

Key to the City Presentation to Neely J. Dunn.

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Legislation Details (With Text)

File #:	23-126	**Version:**	1	**Name:**	
Type:	Resolution			**Status:**	Consent Agenda
File created:	2/15/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	Approve a resolution amending the FY23 budget, BAF 23-041-A to true-up the necessary capital budget and PO roll amounts. Capital projects were completed and PO's liquidated so we would like to decrease the dependency of fund balance for completed projects and assign budget for promotional activity for the City Manager's department. (Finance Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Budget Resolution FY 2023- Agenda 23-126.pdf BAF 23-041-A-FN-PO Capital Roll True Up (3-14-23) Agenda 23-126.pdf BAF 23-041 Tracking Sheet.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: February 15, 2023
Agenda Date: March 14, 2023
Prepared By: Colleen Campbell, MBA, Senior Budget Analyst
Through: Rebecca Bowman, MBA, CGFO, CGFM, Finance Director
Requested Action:
Approve a resolution amending the FY23 budget, BAF 23-041-A to true-up the necessary capital budget and PO roll amounts. Capital projects were completed and PO's liquidated so we would like to decrease the dependency of fund balance for completed projects and assign budget for promotional activity for the City Manager's department.

BACKGROUND:

On 11/30/2022 Agenda 22-674 was presented and approved by council providing budget roll from FY22 to FY23 for necessary funding to complete projects and support open purchase orders.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

Please refer to the attached tracking sheet for detailed information surrounding the requested replenishment of fund balance and funding of promotional activity utilizing FY22 funding for strategic initiatives.

PREVIOUS ACTION:

Approval of resolution 2022-125 to roll the capital budget and necessary PO budget.

RECOMMENDED MOTION:

Approve a resolution amending the FY23 budget, BAF 23-041-A to true-up the necessary capital budget and PO roll amounts. Capital projects were completed and PO's liquidated so we would like to decrease the dependency of fund balance for completed projects and assign budget for promotional activity for the City Manager's department.

RESOLUTION NO. 2023-022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AMENDING THE CITY OF COCOA BUDGET FOR FISCAL YEAR 2023; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Cocoa adopted the final budget for the fiscal year commencing on October 1, 2022, and ending on September 30, 2023, at a Regular meeting held on September 26, 2022; and

WHEREAS, in accordance with Article XII, Section 5 of the City of Cocoa Charter, whereby the Council may, at any time by resolution, transfer any unused and unencumbered appropriation or portion thereof from one office or department to another; and

WHEREAS, the City Council deems it to be in the best interest of the City of Cocoa to amend its budget as provided in this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, as follows:

SECTION 1. The 2022-2023 fiscal year budget shall be amended as detailed in the attached sheets.

SECTION 2. All prior resolutions or prior resolutions inconsistent with this resolution are hereby repealed to the extent of the conflict.

SECTION 3. This resolution shall become effective immediately upon its adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, in a Regular meeting assembled on the 14th day of March, 2023.

_____
Michael C. Blake, Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk

City of Cocoa Budget Adjustment Form FY 2023 - 23-041-A

SELECT ADJUSTMENT TYPE: BUDGET AMENDMENT | REQUESTING DEPARTMENT #: 1600-FN | DATE PREPARED: 02/02/23

'REVENUE' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 0	001-0000-389.99-50		General Fund - See tracking sheet	$ 0	$ 0	$ 0	$ 0
$ 0	421-0000-389.99-50		WaterSewer Fund - See tracking sheet	$ 0	$ 0	$ 0	$ 0
$ 0	423-0000-389.99-50		Stormwater Utility Fund - See tracking shee	$ 0	$ 0	$ 0	$ 0
$ 0	424-0000-389.99-50		Renewal & Replace Fund - See tracking she	$ 0	$ 0	$ 0	$ 0
$ 0	426-0000-389.99-50		WS Cptl Proj 2018B Fund - See tracking sh	$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0	TOTAL						

'EXPENSE' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 0			General Fund - See tracking sheet	$ 0	$ 0	$ 0	$ 0
$ 0			WaterSewer Fund - See tracking sheet	$ 0	$ 0	$ 0	$ 0
$ 0			Stormwater Utility Fund - See tracking shee	$ 0	$ 0	$ 0	$ 0
$ 0			Building Permits Fund - See tracking sheet	$ 0	$ 0	$ 0	$ 0
$ 0			Renewal & Replace Fund - See tracking she	$ 0	$ 0	$ 0	$ 0
$ 0			WS Cptl Proj 2018B Fund - See tracking sh	$ 0	$ 0	$ 0	$ 0
$ 0	TOTAL						

REASON/JUSTIFICATION FOR ADJUSTMENT:

There are corrections to the original budget rollover (BAF 23-001 and 23-002 11-29-22) that are required to reduce our dependency on Fund Balance and reduce the necessary budget for Purchase Orders and Capital Projects. Agenda 23-126.

Council/Board APPROVAL REQUIRED? *YES* (●) *NO* ( ) *DATE APPROVED:* 03/14/23 *RESOLUTION #:* 2023-022

City Council approval is needed for all transfers greater than $50,000 and transfers between Departments / Funds. All CRA adjustments are required to go their respective boards.

2/2/23	Colleen Campbell Digitally signed by Colleen Campbell Date: 2023.02.02 16:41:53 -05'00'	2/2/23	Colleen Campbell Digitally signed by Colleen Campbell Date: 2023.02.02 16:42:13 -05'00'		
Date	Requestor's Signature	Date	Finance Approval Signature	Date	Finance Director's Signature
	Rebecca Bowman Digitally signed by Rebecca Bowman Date: 2023.03.09 16:16:00 -05'00'	3/9/23	Lora Howell Digitally signed by Lora Howell Date: 2023.03.09 14:57:26 -05'00'		
Date	Department Director's Signature	Date	Deputy Fin. Director's Signature	Date	City Manager's Signature

FINANCE USE ONLY:

Date Entered: _____ Entered By: _____ Group #: _____

BAF 23-041-A-Tracking Sheet - Purchase Orders

Revenues	Acct #	Account Description	Project #	PO #	Description
(156,847)	421-0000-389.99-50	Water Sewer Fund Balance			PO Roll Correction
(43,623)	423-0000-389.99-50	Stormwater Utility Fund Balance			PO Roll Correction
(153,548)	424-0000-389.99-50	Renewal & Replace Fund Balance			PO Roll Correction
(354,018)	**Total**				

Expenses	Acct #	Account Description	Project #	PO #	Description
(12,461)	107-3200-515.56-15	IT- Related Operating Expense		79569	Activity Code Transfer
12,461	107-3200-524.56-15	IT- Related Operating Expense		79569	Activity Code Transfer
(2,017)	421-4055-536.63-00	Infrastructure	ws21vp	78688	Per CG no roll
(17,087)	423-3570-538.63-00	Infrastructure	WS21DP	76945	
(26,018)	423-3570-538.63-00	Infrastructure	SW08PL	79864	Per Dept roll - Invoice paid after roll
(18)	423-3570-538.63-00	Infrastructure	SW08PL	78964	Duplicate
(500)	423-3570-538.63-00	Infrastructure	SW21RE	78295	
(50,510)	424-4010-536.63-68	Infrastructure/ Pluckebaum	WS16MM	78969	Per Katie 11/14/22 roll. Per CG - no
(2,987)	424-4020-536.63-00	Infrastructure	WS21WS	78017	
(53,950)	424-4020-536.63-00	Infrastructure	WS21WS	78016	
5,390	424-4020-536.63-00	Infrastructure	WS21OU	78445	
(201,241)	424-4055-536.63-00	Infrastructure	WS1221	78704	
(5,080)	424-4055-536.63-00	Infrastructure	WS16MM	74901	
(154,830)	421-4120-536.31-03	Professional Service/Engineering			Per Katie 31-03, Per CG 64-15
154,830	424-4120-536.64-15	IT Hardware	SW22SC	79234	Per Katie 31-03, Per CG 64-15
(354,018)	**Total**				

BAF 23-041-A-Tracking Sheet - Capital

Revenue

Amount	Account #	Account Description	Project #
4,446	001-0000-389.99-50	General Fund Balance	
(622,300)	421-0000-389.99-50	Water Sewer Fund Balance	
(233,134)	424-0000-389.99-50	Renewal & Replace Fund Balance	
(401)	426-0000-389.99-50	WS CPTL Proj 2018B	
(851,389)	**Total**		

Expense

Amount	Account #	Account Description	Project #	Description
25,000	001-1100-512.34-00	Contract Services		Fund 142 Porductions from FY22
(13,305)	001-1100-512.48-00	Promotional Activities		Public relations/Marketing Campaign
13,305	001-1905-559.48-00	Promotional Activities		Public relations/Marketing Campaign
(14,495)	001-3510-541.63-00	Infrastructure	CA2202	Sidewalks at hughlett & Delanoy
(3,559)	001-3510-541.64-00	Machinery & Equipment	CA2201	FY22 Vehicle Purchase
(2,500)	001-3510-541.64-00	Machinery & Equipment	CA2202	FY22 Vehicle Purchase
(24,182)	421-1515-536.64-00	Machinery & Equipment	CA2201	FY22 Vehicle Purchase
24,182	421-1515-536.64-00	Machinery & Equipment	CA2301	FY22 Vehicle Purchase
(144,810)	421-4020-536.63-00	Infrastructure	WS22DC	Replace Drainage Culverts
(5,657)	421-4020-536.64-00	Machinery & Equipment	CA2101	FY21 Vehicle Purchase
(83,490)	421-4055-536.63-00	Infrastructure	WS19CC	Cape Canveral Line replacement
(1,505,688)	421-4055-536.63-00	Infrastructure	WS21CG	Cocoa Grove utility Ext
1,508,190	421-4055-536.63-00	Infrastructure	WS21CG	Cocoa Grove utility Ext
(2,017)	421-4055-536.63-00	Infrastructure	WS21VP	Viera Pump Station Rolled Twice
(372,815)	421-4055-536.63-00	Infrastructure	WS0402	ES1 widening pine to Cidco FDOT
(477,136)	421-4125-536.64-00	Infrastructure	CA2201	Jet Vac
474,521	421-4125-536.64-00	Machinery & Equipment	CA2201	Jet Vac
(13,398)	421-4125-536.64-15	IT-Hardware	WS21SP	SCADA Panel Upgrade
(44,926)	424-4020-536.63-00	Infrastructure	WS18SW	Dyal Surface Water Filter
(197,293)	424-4055-536.63-00	Infrastructure	WS18HS	Harrison St Improve
(1,017,603)	424-4055-536.63-00	Infrastructure	WS21SC	Sykes Creek Bridge
1,008,122	424-4055-536.63-00	Infrastructure	WS21SC	Sykes Creek Bridge
(300,000)	424-4120-536.63-00	Infrastructure	WS1222	BNR Efficiency Improvements
300,000	424-4120-536.63-00	Infrastructure	WS22IR	IRP pump replacement
18,566	424-4120-536.63-00	Infrastructure	WS1222	BNR Efficiency Improvements
(42,600)	426-4055-536.63-00	Infrastructure	WS1404	CCRIP
42,201	426-4055-536.63-00	Infrastructure	WS1404	CCRIP
(417,155)	426-4055.536.63-00	Infrastructure	WS18MI	Pineda Subaquaeous Pipe
417,153	426-4055.536.63-00	Infrastructure	WS18MI	Pineda Subaquaeous Pipe
(851,389)	**Total**			

Legislation Details (With Text)

File #:	23-135	**Version:**	1	**Name:**	
Type:	Resolution			**Status:**	Consent Agenda
File created:	2/21/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	Award Bid No. B-23-14-COC, Groundwater Filter #3 IMS Cap and Media Replacement, Project No. WS23DF to Elenis Contracting LLC of Poland, Ohio, in the Amount of $424,120.37; To Approve a Resolution Authorizing the City Manager to Approve Change Orders in an amount not to exceed $42,413 (10% of the contract amount), for a total cost of $466,533.37; To Approve a Resolution Amending the FY2023 Budget, BAF# 23-046-T; To Authorize the City Manager to execute the Contract. (Utilities Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	B-23-14-COC Construction Agreement - pg 17 signed.pdf Contingency Resolution WS23DF.pdf Budget Resolution FY 2023- WS23DF.pdf BAF 23-046-T-UT-Fund Caps and Media on Filter 3 (3-14-23) Agenda 23-135.pdf ITB_B-23-14-COC_Dyal_GW_Filter_3_IMS_Cap_and_Media_Replacement_FINAL.pdf Exhibit A - Technical Specifications B-23-14-COC.pdf Addendum #1 Q&A.pdf B-23-14-COC Bid Tabulation.pdf Elenis Bid.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: February 21, 2023
Agenda Date: March 14, 2023
Prepared By: Katherine D. Ennis, P.E., Deputy Utilities Director
Through: John A. Walsh, P.E., Utilities Director
Requested Action:
To Award Bid No. B-23-14-COC, Groundwater Filter #3 IMS Cap and Media Replacement, Project No. WS23DF to Elenis Contracting LLC of Poland, Ohio, in the Amount of $424,120.37; To Approve a Resolution Authorizing the City Manager to Approve Change Orders in an amount not to exceed $42,413 (10% of the contract amount), for a total cost of $466,533.37; To Approve a Resolution Amending the FY2023 Budget, BAF# 23-046-T; To Authorize the City Manager to execute the Contract.

BACKGROUND:

The dual media filters at the Dyal Water Treatment Plant are used to remove suspended solids from

water. The filters are cleaned periodically with water and air so that the media can be reused. With time, however, the media exhausts its removal capabilities and needs to be exchanged. As such, the Utilities Engineering Division completed a design for the replacement of the media, as well as parts of the underdrain system (the IMS caps), which have become clogged with sediment and scaling.

Bids for the ITB B-23-14-COC, Groundwater Filter #3 IMS Cap and Media Replacement, were opened on February 15, 2023. Purchasing received three responses from 31 plan holders. The responses are shown below:

Vendor	Base Bid	Alternate	Total Bid
Bearing Point Construction LLC	$427,426.00	$46,154.00	$473,580.00
Elenis Contracting, LLC	$394,870.37	$29,250.00	$424,120.37
Lawrence Lee Construction Services, Inc.	$659,000.00	$78,000.00	$737,000.00

The apparent low bidder was Elenis Contracting, LLC, of Poland, Ohio, who submitted the lowest and best quote in the amount of $424,120.37 (including the Bid Alternate).

City staff is also requesting that City Council approve an additional $42,413 as a contingency for the project. The additional amount is 10% of the contract amount and will be used for change orders with approval by the City Manager. Although City staff does not anticipate change orders, there is a possibility of unknown obstacles in the field that would require changes to the project budget and/or schedule. If a change order is needed, the additional amount will allow the project to continue to move forward. The additional $42,413 will not be added to the initial purchase order and each change order will be reviewed by staff before it is sent to the City Manager for approval.

The total funding required for this project for construction, engineering services and contingency is $466,533.37. The original amount budgeted for this project was $295,000. Therefore, to fully fund the project, staff will require a project transfer of an additional $171,534 from Account No. 424-4055-536.63-00, Infrastructure (WS1201) to Account No. 424-4055-536.63-00, Infrastructure (WS23DF).

Staff recommends awarding Bid No. B-23-14-COC, Groundwater Filter #3 IMS Cap and Media Replacement, to Elenis Contracting LLC of Poland, Ohio.

STRATEGIC PLAN CONNECTION:

NA

BUDGETARY IMPACT:

Original Amount Budgeted

Amount	$295,000
Account Number	424-4020-536.63-00, WS23DF
Account Name	Water Sewer/Infrastructure

BAF#23-046-T (Project Transfer)

Amount Requested	($171,534)
Account Number	424-4055-536.63-00, WS1201
Account Name	Water Sewer/Infrastructure

Amount Requested	$171,534
Account Number	424-4020-536.63-00, WS23DF
Account Name	Water Sewer/Infrastructure

Total Project

Amount Requested	$466,533.37
Project Account Number	424-4020-536.63-00 WS23DF
Project Account Name	Water Sewer/Infrastructure
Source of Funds:	Capital

PREVIOUS ACTION:

NA

RECOMMENDED MOTION:

To Award Bid No. B-23-14-COC, Groundwater Filter #3 IMS Cap and Media Replacement, Project No. WS23DF to Elenis Contracting LLC of Poland, Ohio, in the Amount of $424,120.37; To Approve a Resolution Authorizing the City Manager to Approve Change Orders in an amount not to exceed $42,413 (10% of the contract amount), for a total cost of $466,533.37; To Approve a Resolution Amending the FY2023 Budget, BAF# 23-046-T; To Authorize the City Manager to execute the Contract.

CONSTRUCTION AGREEMENT
B-23-14-COC

THIS AGREEMENT is made this ____ day of _____, 2023 by and between the **CITY OF COCOA**, a Florida municipal corporation (herein referred to as OWNER) and **ELENIS CONTRACTING LLC**, a for profit corporation authorized and duly licensed to do business in the State of Florida (herein referred to as CONTRACTOR), as follows:

1. **DESCRIPTION OF WORK** - CONTRACTOR shall perform the work, in accordance with the Contract Documents for the replacement of the Integral Media Support (IMS) Caps and media in Groundwater Filter #3 at the Dyal Water Treatment Plant (WTP), ("the Project").

2. **CONTRACT DOCUMENTS** - The Contract Documents consist of this Agreement; Exhibits and Addendum(s) to the Agreement; the Construction Drawings for City of Cocoa; ITB Documents issued by the City, dated January 11, 2023; Contractor's Bid Submittal, dated February 15, 2023; General Conditions, if any; Supplemental Terms and Conditions by the City, if any; all Change Orders approved by the City after execution of this Agreement; These Contract Documents are hereby incorporated into this Contract by this reference. The CONTRACTOR represents and agrees that it has carefully examined and understands this Agreement and the other Contract Documents, has investigated the nature, locality and site of the Work and the conditions and difficulties under which it is to be performed and that it enters into this Agreement on the basis of its own examination, investigation and evaluation of all such matters and not in reliance upon any opinions or representations of the OWNER, or of any of their respective officers, agents, servants, or employees. The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intent of the Contract Documents is to include all labor, materials, equipment, transportation, taxes, fees and incidentals necessary for the proper and complete execution of the Work for each Project. Materials or Work described in words which so applied have a well-known technical or trade meaning shall be held to refer to such recognized standards. Any discrepancies or omissions found in the Contract Documents shall be reported to the City's Project Manager immediately. The City's Project Manager will clarify discrepancies or omissions, in writing, within a reasonable time.

3. **ORDER OF PRECEDENCE** - In case of any inconsistency in any of the documents bearing on the Agreement between the OWNER and the CONTRACTOR, the inconsistency shall be resolved by giving precedence in the following order:

    a. Change Orders

    b. Agreement, Exhibits and Addenda

    c. Supplemental Terms and Conditions

    d. General Terms and Conditions

    e. Engineering Plans and Drawings

    f. ITB B-23-14-COC issued by the City of Cocoa dated January 11, 2023,

including any subsequently issued Addenda, Attached as Exhibit B

g. Contractor's Bid Submittal, attached as Exhibit C

Any inconsistency in the work description shall be clarified by the OWNER and performed by the CONTRACTOR.

4. **AGREEMENT INTERPRETATION** - At its discretion, during the course of the work, should any errors, ambiguities, or discrepancies be found in the Contract Documents, the OWNER at its sole discretion will interpret the intent of the Contract Documents and the CONTRACTOR hereby agrees to abide by the OWNER's interpretation and agrees to carry out the work in accordance with the decision of the OWNER.

5. **BRAND NAME MATERIALS** - Whenever Materials or Equipment are specified or described in the Drawings or Specifications by using the name of a proprietary item or the name of a particular Supplier, the naming of the item is intended to establish the type, function and quality required. The CONTRACTOR will be responsible for all coordination necessary to accommodate the material, article, or equipment being provided without additional cost to the OWNER. Unless the name is followed by words indicating that no substitution is permitted, a substitute material, article, or equipment is allowed if it is reasonably equivalent to the brand name specified and CONTRACTOR certifies in writing that the proposed substitute will perform adequately the functions called for by the general design, be similar and of equal substance to that specified and be suited to the same use and capable of performing the same function as that specified. . The OWNER has full discretion to decide whether a substitute is reasonably equivalent. CONTRACTOR must notify the OWNER in writing prior to use of the substitute for a specified brand name and allow the OWNER to make a determination before CONTRACTOR uses the substitute.

6. **CONTRACT TIME** -

a. All provisions regarding Contract Time are essential to the performance of this Contract.

b. The Work shall be substantially completed within One Hundred and Fifty (150) calendar days after the date when the Contract Time begins to run. The Work shall be finally completed, ready for Final Payment within Thirty (30) calendar days after the actual date of Substantial Completion.

The date of Substantial Completion of the Work is the date certified in writing by the OWNER when (1) construction is sufficiently complete, in accordance with the contract documents, so the OWNER can occupy or utilize the work for its intended purpose, as expressed by the contract documents, and (2) any additional project-specific requirements or milestones for "Substantial Completion" identified in the general, special, or technical conditions or construction plans have been satisfied.

c. The parties acknowledge that the Contract Time provided in this Section includes consideration of adverse weather conditions common to Central Florida including the possibility of hurricanes and tropical storms.

d. In the event that the Work requires phased construction, then multiple points of Substantial Completion may be established in the Supplementary Conditions.

7. **LIQUIDATED DAMAGES** - OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not substantially complete within the time specified in Paragraph 6 above, plus any extensions thereof allowed in accordance with the General Conditions. OWNER and CONTRACTOR also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration preceding the actual loss suffered by OWNER if the Work is not substantially complete on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER **$500.00** for each calendar day that expires after the time specified in Paragraph 6 for substantial completion until the work is substantially complete and **$250.00** for each calendar day that expires after the time specified in Paragraph 6 for final completion until the work is finally complete. The liquidated damages provided in this Section are intended to apply even if CONTRACTOR is terminated, in default, or if the CONTRACTOR has abandoned the Work. This provision binds Contractor's performance bond surety.

8. **CONTRACT PRICE, UNIT PRICE CONTRACT** - The OWNER will pay the CONTRACTOR in current funds for the performance of the work in accordance with the Contract Documents, subject to additions and deductions approved by Change Order, the Total Contract Price of **Four Hundred Twenty Four Thousand, One Hundred and Twenty Dollars ($424,120.00)**. CONTRACTOR agrees to accept the Contract Price as full compensation for performing all Work, furnishing all Materials, and performing all Work embraced in the Contract Documents.

The CONTRACTOR acknowledges that CONTRACTOR studied, considered, and included in CONTRACTOR's Total Bid all costs of any nature relating to: (1) performance of the Work under Florida weather conditions; (2) applicable law, licensing, and permitting requirements; (3) the Project site conditions, including but not limited to, subsurface site conditions; (4) the terms and conditions of the Contract Documents, including, but not limited to, the indemnification and no damage for delay provisions of the Contract Documents.

The CONTRACTOR acknowledges that performance of the Work may involve significant Work adjacent to, above, and in close proximity to Underground Facilities including utilities which will require the support of active utilities, as well as, the scheduling and sequencing of utility installations, and relocations (temporary and permanent) by CONTRACTOR.

(1) In addition to the acknowledgments previously made, the CONTRACTOR acknowledges that the CONTRACTOR's Total Bid (original Contract Price) specifically considered and relied upon CONTRACTOR's own study of Underground Facilities, utilities in their present, relocated (temporary and permanent) and proposed locations, and conflicts relating to utilities and Underground Facilities.

(2) The CONTRACTOR acknowledges that CONTRACTOR's Total Bid (original Contract Price) considered and included all of CONTRACTOR's costs relating to CONTRACTOR's responsibilities to coordinate and sequence the Work of the CONTRACTOR with the work of the OWNER, if any, with its own forces, the work of other contractors, if any, and the work of others at the Project site.

Payments will be made to the CONTRACTOR for actual quantities installed on the basis of the Schedule of Unit Prices included as a part of the Bid, which shall be as fully a part of the Contract as if attached or repeated herein. Where the Contract Documents provide for Unit Price Work, the Contract Price stated in the Agreement will include for all Unit Price Work an amount equal to the sum of the Unit Prices for each item of Unit Price Work times the estimated quantity of each item as indicated in the Contract Documents. Each Unit Price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover all costs, including supplemental and administrative costs, and profit.

9. **TERMINATION; DEFAULT BY CONTRACTOR AND OWNER'S REMEDIES -** The OWNER reserves the right to revoke and terminate this Agreement and rescind all rights and privileges associated with this Agreement, without penalty, for convenience. Further, the OWNER reserves the right to revoke and terminate this Agreement in the following circumstances, each of which shall represent a default and breach of this Agreement:

a. CONTRACTOR defaults in the performance of any material covenant or condition of this Agreement and does not cure such other default within seven (7) calendar days after written notice from the OWNER specifying the default complained of, unless, however, the nature of the default is such that it cannot, in the exercise of reasonable diligence, be remedied within seven (7) calendar days, in which case the CONTRACTOR shall have such time as is reasonably necessary to remedy the default, provided the CONTRACTOR promptly takes and diligently and continuously pursues such actions as are necessary therefore; or

b. CONTRACTOR is adjudicated bankrupt or makes any assignment for the benefit of creditors or CONTRACTOR becomes insolvent, or is unable or unwilling to pay its debts; or

c. CONTRACTOR has acted negligently, as defined by general and applicable law, in performing the Work hereunder; or

d. CONTRACTOR has committed any act of fraud upon the OWNER; or

e. CONTRACTOR has made a material misrepresentation of fact to the OWNER while performing its obligations under this Agreement; or

f. CONTRACTOR is experiencing a labor dispute, which threatens to have a substantial, adverse impact upon performance of this Agreement without prejudice to any other right, or remedy OWNER may have under this Agreement.

In the event of an uncured default by CONTRACTOR, the OWNER shall have the right to exercise any other remedy the OWNER may have by operation of law, without limitation, and without any further demand or notice. In the event of such termination, OWNER shall be liable only for the payment of all unpaid charges, determined in accordance with the provisions of this Agreement, for Work properly performed prior to the effective date of termination, which may be a set-off to Owner's damages.

10. **FORCE MAJEURE -** Any delay or failure of either party in the performance of its required obligations hereunder shall be excused if and to the extent caused by acts of God; fire; flood; windstorm; explosion; riot; war; sabotage; strikes (except involving CONTRACTOR's labor force); extraordinary breakdown of or damage to OWNER 's affiliates' generating plants, their equipment, or facilities; court injunction or order; federal and/or state law or regulation; or order by any regulatory agency; ; provided that prompt notice of such delay is given by such party to the other and each of the parties hereunto shall be diligent in attempting to remove such cause or causes.

11. **SEVERABILITY -** In the event any portion or part thereof of this Agreement is deemed invalid, against public policy, void, or otherwise unenforceable by a court of law, the validity and enforceability of the remaining parts of this Agreement shall otherwise be fully enforceable

12. **PROGRESS PAYMENTS; DUE DATE FOR PROGRESS PAYMENTS; SUBMITTAL OF PAYMENT REQUESTS** – No payments shall be made where a Payment and Performance Bond is required herein until OWNER receives a certified copy of the recorded Bond. OWNER shall make progress payments on account of the contract price to CONTRACTOR, on the basis of application for payments submitted to the OWNER or OWNER's Project Manager, by CONTRACTOR as the work progresses, and in accordance with the Contract Documents.

Progress payments may be withheld if:

a. Work is found defective and not remedied;

b. CONTRACTOR does not provide consent of surety with each payment application;

c. Another contractor is damaged by an act for which CONTRACTOR is responsible; or

d. In the opinion of the OWNER that CONTRACTOR's work is not progressing satisfactorily.

OWNER herein (X) designates or (____) does not designate an agent, i.e., an architect or engineer, that must approve any payment request or invoice before the payment request or invoice is submitted to OWNER for payment. If an agent must approve the payment request or invoice before the payment request or invoice is submitted to OWNER, payment is due 25 business days after the date on which the payment request or invoice is stamped as received as provided in s. 218.74(1), Florida Statutes, except to the extent that the payment request or invoice does not meet contract requirements. The CONTRACTOR may send OWNER an overdue notice. If the payment request or invoice is not rejected within 4 business days after delivery of the overdue notice, the payment request or invoice shall be deemed accepted, except for any portion of the payment request or invoice that is inaccurate or misleading. If an agent need not approve the payment request or invoice submitted by CONTRACTOR, payment is due 20 business days after the date on which the payment request or invoice is stamped as received as provided in s. 218.74(1), Florida Statutes, except to the extent that the payment request or invoice does not meet contract requirements. If OWNER disputes a portion of a payment request or an invoice, the undisputed portion shall be timely paid. OWNER shall reject payment requests or invoices in accordance with the procedure established in s. 218.735, Florida Statutes.

OWNER hereby identifies City of Cocoa Accounts Payable with an email address of accountspayable@cocoafl.org, as the agent or office to which the CONTRACTOR must submit payment requests or invoices to OWNER. The OWNER further hereby identifies Katherine Ennis, Utilities Deputy Director, Attn: kennis@cocoafl.gov, as the agent that must approve payment requests prior to their submission to OWNER.

13. **FINAL PAYMENT; CHANGE ORDERS** - OWNER shall withhold up to 5% of the Contract Price throughout the project in accordance with the Local Government Prompt Payment Act ("Act"). The retainage amount withheld may be released with the Final Payment after the issuance of the Final Completion Certificate. Consent of surety is required for final payment. OWNER shall make final payment to CONTRACTOR within thirty (30) days after the work is fully and properly completed, if the contract has been fully and timely performed, but subject to the condition that final payment shall not be due until CONTRACTOR has delivered to OWNER all close-out documentation.

By making payments OWNER does not waive claims including but not limited to those relating to:

a. Faulty work appearing after substantial completion has been granted;

b. Work that does not comply with the Contract Documents; or

c. Failure of Contractor to comply with any special guarantees required by the Contract Documents.

Progress payments may be withheld if Work is found defective and not remedied; CONTRACTOR does not provide consent of surety with each progress application a subcontractor is damaged by an act for which CONTRACTOR is responsible; ; or in the opinion of the OWNER, CONTRACTOR'S work is not progressing satisfactorily. Further, OWNER may withhold additional payment in anticipation of liquidated damages equal to the product of the number of Days after the scheduled Contract Time (Substantial Completion or Final Completion) and the amount of liquidated damages set forth in this Contract if CONTRACTOR is behind schedule and it is anticipated by OWNER that the Work will not be completed within the Contract Time. The additional payment, under this subsection, may at the OWNER'S discretion be withheld from subsequent Progress Payments.

The City, by written change order and without invalidating the Agreement, may order extra Work or make changes by altering, adding to, or deducting from the Work, the contract sum being adjusted accordingly. Additional time required for any change in Work must be included with the requested Change Order.

In giving instructions, the City's Project Manager will have authority to make minor changes in the Work, not involving extra cost or time, and not inconsistent with the purpose of the Work, but otherwise, except in an emergency endangering life or property, no extra work or change will be made unless it goes through the City's written Change Order process and is approved by the City, and no claim for an addition to the contract sum or time will be valid unless so ordered in writing.

The value of any such extra Work or change will be determined in one or more of the following ways:

1. By mutual acceptance of a lump sum.
2. By unit prices named in the contract or subsequently agreed upon.
3. By cost and percentage or by cost and a fixed fee.

If none of the above methods is agreed upon, the CONTRACTOR, provided it receives an order as above, shall proceed with the work. In such case and also under case (3) above, the CONTRACTOR shall keep and present in such form as the City's Project Manager may direct, a correct account of the actual cost of labor and materials, substantiated by back-up documentation. In any case, the City's Project Manager will certify to the amount, including reasonable allowances for overhead and profit, due to the CONTRACTOR. Pending final determination of value, payments on account of changes will be made on the City's Project Manager's estimate. Furthermore, if the CONTRACTOR claims that any instructions by drawings or otherwise involve extra cost under the Contract Documents, it shall give the City written notice thereof within ten (10) days after the receipt of such instructions, and in any event before proceeding to execute the work, except in emergency endangering life or property, and the procedure shall then be as provided above under this section. Claims will not be processed unless filed in writing before any work has commenced. In addition, if the City's Project Manager deems it appropriate the City may accept defective or incomplete work and an equitable deduction from the Contract Price will be made therefor by Change Order.

14. **DESIGNATION OF PROJECT MANAGER OR ARCHITECT OR LANDSCAPE ARCHITECT: DUTIES AND AUTHORITY** - The duties and authority of the OWNER are as follows:

a. **General Administration of Contract**. The primary function of the OWNER is to provide the general administration of the contract. In performance of these duties, Katherine Ennis, Utilities Deputy Director, Attn: kennis@cocoafl.gov, or her authorized representative is the OWNER's Project Manager during the entire period of construction. The OWNER (CITY) may change the Project Manager during the term of this contract.

b. **Inspections, Opinions, and Progress Reports.** The OWNER and its representatives shall be kept familiar with the progress and quality of the work by CONTRACTOR and may make periodic visits to the work site. The OWNER will not be responsible for the means of construction, or for the sequences, methods, and procedures used therein, or for the CONTRACTOR's failure to perform the work in accordance with the Contract Documents.

c. **Access to Worksite for Inspections.** The OWNER and its representatives shall be given free access to the worksite at all times during work preparation and progress. The Project Manager is not obligated to make exhaustive or continuous on-site inspections to perform his duties of checking and reporting on work progress, and any such inspections shall not waive Owner's claim regarding defective work by Contractor. No inspector is authorized to change any provision of the specifications without written authorization of the City's Project Manager, nor shall the presence or absence of an inspector relieve the CONTRACTOR from any requirements of the Contract Documents.

If the specifications, the City's instructions, laws, ordinances, or any public authority, require any work to be specially tested or approved, the CONTRACTOR shall give the City timely notice of its readiness for inspection, and of the date fixed for such inspection. Inspections by the City's Project Manager will be promptly made.

If upon inspection such work is found not in accordance with the Contract Documents, the CONTRACTOR shall pay such cost, including compensation for professional services, and an appropriate deductive Change Order shall be issued.

d. **Interpretation of Contract Documents: Decisions on Disputes.** The OWNER will be the initial interpreter of the contract document requirements, and make decisions on claims and disputes between Contractor and Owner.

e. **Rejection and Stoppage of Work.** The OWNER shall have authority to reject work which in its opinion does not conform to the Contract Documents, and in this connection may stop the work or a portion thereof, when necessary.

f. **Payment Certificates.** The OWNER will determine the amounts owing to CONTRACTOR as the work progresses, based on CONTRACTOR's applications and OWNER's inspections and observations, and will issue certificates for progress payments and final payments in accordance with the terms of the Contract Documents.

g. **City Reviews and Status.** The City's review, inspection, or approval of any Work, applications for payment, or other submittals shall be solely for the purpose of determining whether the same are generally consistent with the City's scope and requirements for the project. No review, inspection, or approval by the City of such Work or documents shall relieve the CONTRACTOR of its responsibility for the performance of its obligations under the Contract Documents or the accuracy, adequacy, fitness, suitability, or coordination of the Work. Approval by any governmental or other regulatory agency or other governing body of any Work, design document, or construction document shall not relieve CONTRACTOR of responsibility for the performance of its obligations under the Contract Documents. Payment by the City pursuant to the Contract Documents shall not constitute a waiver of any of the City's rights under the Contract Documents or at law, and CONTRACTOR expressly accepts the risk that defects in its performance, if any, may not be discovered until after payment, including final payment, is made by the City. Notwithstanding the foregoing, prompt written notice shall be given by the City or City Project Manager to the CONTRACTOR if the City becomes aware of any fault or defect in the Projects or non-conformance with the Contract Documents. Furthermore, the City shall not have control or charge of construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, nor shall the CONTRACTOR, for any of the foregoing purposes, be deemed the agent of the City.

15. **PROGRESS MEETINGS** – OWNER'S Project Manager may hold periodic progress meetings on a monthly basis, or more frequently if required by the OWNER, during the term of work entered into under this Agreement. CONTRACTOR's Project Manager and all other appropriate personnel shall attend such meetings as designated by the OWNER'S Project Manager.

16. **RESPONSIBILITIES OF CONTRACTOR** - CONTRACTOR's duties and rights in connection with the project herein are as follows:

a. **Responsibility for Supervision and Construction**. CONTRACTOR shall be solely responsible for all construction under this contract, including the techniques, sequences, procedures and means, for the coordination of all work. CONTRACTOR shall supervise and direct the work, and give it all attention necessary for such proper supervision and direction.

b. **Discipline and Employment.** CONTRACTOR shall maintain at all times strict discipline among his employees, and he agrees not to employ for work on the project any person unfit or without sufficient skill to perform the job for which he was employed.

c. **Furnishing of Labor, Materials, etc.** CONTRACTOR shall provide and pay for all labor, materials and equipment, including tools, construction equipment and machinery, utilities, including water, transportation, and all other facilities and work necessary for the proper completion of work on the project in accordance with the Contract Documents.

d. **Payment of Taxes: Procurement of Licenses and Permits.** CONTRACTOR shall secure all licenses and permits necessary for proper completion of the work, paying the fees thereof. CONTRACTOR warrants that it (and subcontractors or tradesmen, if authorized in the Contract Documents) hold or will secure all trade or professional licenses required by law for CONTRACTOR to undertake the contract work.

e. **Guarantee.** The CONTRACTOR hereby guarantees the Work to the full extent provided in the Plans, Specifications, General Conditions, Special Conditions and other Contract Documents. The CONTRACTOR shall remove, replace and/or repair at its own expense and at the convenience of the OWNER any faulty, defective or improper Work, materials or equipment discovered within one (1) year from the date of the acceptance of the project as a whole by the Owner or for such longer period as may be provided in the Plans, Specifications, General Conditions, Special Conditions or other Contract Documents. Without limiting the generality of the foregoing, the CONTRACTOR warrants to the OWNER, that all materials and equipment furnished under this Agreement will be of first class quality and new, unless otherwise required or permitted by the other Contract Documents, that the Work performed pursuant to this Agreement will be free from defects and that the Work will strictly conform with the requirements of the Contract Documents. Work not conforming to such requirements, including substitutions not properly approved and authorized, shall be considered defective. All warranties contained in this Agreement and in the Contract Documents shall be in addition to and not in limitation of all other warranties or remedies required and/or arising pursuant to applicable law. Furthermore, CONTRACTOR will provide written guarantee for work and materials for one (1) calendar year after acceptance by OWNER. The one (1) period is not a limitation upon manufacturer warranties or CONTRACTOR's payment and performance Bond(s).

f. **Project Site.** The CONTRACTOR shall, among other things, (i) visit and thoroughly inspect the project site and any structure(s) or other man-made features to be modified and become familiar with local conditions under which the project will be constructed and operated; (ii) if applicable, familiarize itself with the survey, including the location of all existing buildings, utilities, conditions, streets, equipment, components, and other attributes

having or likely to have an impact on the project; (iii) familiarize itself with the City's layout and design requirements, conceptual design objectives, and budget for the project; (iv) familiarize itself with pertinent Project dates, including the Project Schedule; (v) review and analyze all project geotechnical, hazardous substances, structural, chemical, electrical, mechanical, and construction materials tests, investigations, and recommendations; and (vi) gather any other information necessary for a thorough understanding of the project. If the project involve modifications to any existing structure(s) or other man-made feature(s) on the project site, the CONTRACTOR shall also review all as-built and record drawings, plans, and specifications of adjacent work which the CONTRACTOR requests from the City , and shall thoroughly inspect the existing structure(s) and man-made feature(s) to identify existing deficiencies and ascertain the specific locations of pertinent structural components. Claims by the CONTRACTOR resulting from its failure to familiarize itself with the project site or pertinent documents shall be deemed waived.

17. **ASSIGNMENT -** CONTRACTOR shall not assign this Agreement, or any rights or any monies due or to become due hereunder without the prior, written consent of the OWNER.

a. CONTRACTOR shall be fully responsible to OWNER for all acts and/or omissions performed by its subcontractors.

b. If CONTRACTOR, prior to the commencement of any Work subcontracts any part of this Agreement by the subcontractor, CONTRACTOR shall require the subcontractor to provide OWNER and its affiliates with insurance coverage as set forth by the OWNER.

18. **THIRD PARTY RIGHTS -** Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than OWNER and CONTRACTOR.

19. **PROHIBITION AGAINST CONTINGENT FEES -** CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

20. **NO JOINT VENTURE -** Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties and neither party is authorized to, nor shall either party act toward third persons or the public in any manner which would indicate any such relationship with the other party.

21. **INDEMNIFICATION –** CONTRACTOR shall indemnify and hold harmless the OWNER, its officers, employees, agents, engineer, and city attorneys (individually and in their official capacity, from liability, losses, damages, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of CONTRACTOR and persons employed or utilized by CONTRACTOR in the performance of this Agreement.

CONTRACTOR specifically assumes potential liability for actions brought by CONTRACTOR'S own employees against the OWNER and, solely for the purpose of this

indemnification and defense, CONTRACTOR specifically waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. This waiver has been specifically and mutually negotiated by the parties.

The indemnification provided above shall obligate the CONTRACTOR to defend at its own expense or to provide for such defense, at the option of the OWNER, as the case may be, of any and all claims of liability and all suits and actions of every name and description that may be brought against the OWNER or its officers, employees, and city attorneys which may covered by this indemnification. In all events the OWNER and its officers, employees, engineer, and city attorneys shall be permitted to choose legal counsel of its sole choice, the fees for which shall be reasonable and subject to and included with this indemnification provided herein.

In consideration of the CONTRACTOR's indemnity obligations, the parties allocate ONE PERCENT (1%) OF THE CONTRACT SUM as specific consideration for CONTRACTOR's indemnification of OWNER and that the specific consideration is included in the original Contract Price allocated by CONTRACTOR among all pay items - receipt of which is acknowledged.

The indemnity provisions set forth in this Paragraph shall survive termination of this Agreement.

22. **SAFETY -** CONTRACTOR shall be solely and absolutely responsible and assume all liability for the safety and supervision of its principals, employees, contractors, and agents while performing work provided hereunder. More specifically, the CONTRACTOR shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. The CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

1. All employees on the project site and other persons who may be affected thereby.
2. All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the project site.
3. Other property at the project site or adjacent thereto.

CONTRACTOR shall comply with all applicable Federal Occupational Safety and Health Administration (OSHA) and Florida Department of Transportation safety standards and shall assure and monitor the compliance of its Subcontractors with those same standards.

Further, CONTRACTOR shall work in compliance with the OSHA Hazardous Communication Standard and Florida Department of Environmental Protection guidelines, and shall supply all information about hazardous chemical being brought onto City property as required by any applicable City Safety and Loss Control Program.

23. **CORPORATE REPRESENTATIONS BY CONTRACTOR -** CONTRACTOR hereby represents and warrants to the OWNER the following:

a. CONTRACTOR is duly registered and licensed to do business in the State of Florida and is in good standing under the laws of Florida, and is duly qualified and authorized to carry on the functions and operations set forth in this Agreement.

b. The undersigned signatory for CONTRACTOR has the power, authority, and the legal right to enter into and perform the obligations set forth in this Agreement and all applicable exhibits thereto, and the execution, delivery, and performance hereof by CONTRACTOR has been duly authorized by the board of directors and/or president of CONTRACTOR. In support of said representation, CONTRACTOR agrees to provide a copy to the OWNER of a corporate certificate of good standing provided by the State of Florida prior to the execution of this Agreement.

c. CONTRACTOR is duly licensed under all local, state and federal laws to provide the work stated in paragraph 1.0 herein. In support of said representation, CONTRACTOR agrees to provide a copy of all said licenses to the OWNER prior to the execution of this Agreement.

24. **BOND** - CONTRACTOR shall supply a materials, performance and payment bond(s) in accordance with Florida law and in substantially in conformance with the forms attached to the Agreement as **Exhibit "A"** and approved by the City Attorney. The materials, performance, and payment amounts shall be in an amount equal to 100% of the Contract Price for the work prescribed herein. The issuance of bonds required under this Agreement shall not relieve Contractor of any liability under the Agreement. Contractor shall remain jointly and severally liable with any surety issuing a bond under the Contract. The premium for such bonds is included in the Contract Price.

25. **INSURANCE -** During the term of this Agreement, CONTRACTOR shall be responsible for providing the types of insurance and limits of liability as set forth under this Paragraph. Additionally, all independent contractors or agents employed by CONTRACTOR to perform any Work hereunder shall fully comply with the insurance provisions contained in these Contract Documents.

a. The CONTRACTOR shall maintain comprehensive general liability insurance in the minimum amount of $2,000,000 as the combined single limit for each occurrence to protect the CONTRACTOR from claims of property damages which may arise from any Work performed under this Agreement whether such Work are performed by the CONTRACTOR or by anyone directly employed by or contracting with the CONTRACTOR.

b. The CONTRACTOR shall maintain comprehensive automobile liability insurance in the minimum amount of $1,000,000 combined single limit bodily injury and minimum $1,000,000 property damage as the combined single limit for each occurrence to protect the CONTRACTOR from claims for damages for bodily injury, including wrongful death, as well as from claims from property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the CONTRACTOR or by anyone directly or indirectly employed by the CONTRACTOR.

c. The CONTRACTOR shall maintain, during the life of this Agreement, adequate Workers' Compensation Insurance in at least such amounts as are required by law and Employer's Liability Insurance in the minimum amount of $2,000,000 for all of its employees performing Work for the OWNER pursuant to this Agreement.

d. The CONTRACTOR shall maintain comprehensive builder risk insurance, which shall cover CONTRACTOR'S labor, and any materials and equipment to be used for completion of the Work performed under this Agreement, against all risks of direct physical loss, excluding earthquake and flood, for a minimum amount of the Total Contract Price. CONTRACTOR shall maintain the builder risk insurance required by this subsection until final completion.

Current, valid insurance policies meeting the requirements herein identified shall be maintained during the term of this Agreement. A copy of a current Certificate of Insurance shall be provided to the OWNER by CONTRACTOR upon the Effective Date of this Agreement which satisfied the insurance requirements of this Paragraph 25. Renewal certificates shall be sent to the OWNER 30 days prior to any expiration date. There shall also be a 30-day advance written notification to the OWNER in the event of cancellation or modification of any stipulated insurance coverage. **The OWNER and its engineer shall be an additional named insured on all stipulated insurance policies as its interest may appear, from time to time, excluding worker's compensation and professional liability policies**.

Insurance covering the specified additional insureds shall be primary insurance, and all other insurance carried by the additional insured shall be excess insurance; and with respect to workers' compensation and employer's liability, comprehensive automobile liability, commercial general liability, and umbrella liability insurance, CONTRACTOR shall require CONTRACTOR's insurance carriers to waive all rights of subrogation against OWNER and its engineer, the engineer's consultants, and their respective officers, directors, partners, employees and agents.

Each policy shall contain a cross liability or severability of interest clause or endorsement.

26. **MEDIATION/VENUE** - The parties agree that should any dispute arise between them regarding the terms or performance of this Agreement, both parties will participate in mediation. The parties agree to equally share the cost of the mediator. Should the parties fail to resolve their differences through mediation, then any cause of action filed hereunder shall be filed in the Circuit or County Court for BREVARD County, Florida. The Contractor's surety is bound by this provision.

27. **GOVERNING LAW & VENUE -** This Agreement is made and shall be interpreted, construed, governed, and enforced in accordance with the laws of the State of Florida. Venue for any state action or litigation shall be BREVARD County, Florida. Venue for any federal action or litigation shall be Orlando, Florida. The Contractor's surety is bound by this provision.

28. **ATTORNEY'S FEES -** Should either party bring an action to enforce any of the terms of this Agreement, each party shall bear its own costs and expenses of such action including, but not limited to, reasonable attorney's fees, whether at settlement, trial or on appeal. This provision does not apply to Contractor's surety.

29. **NOTICES** - Any notice or approval under this Contract shall be sent, postage prepaid, to the applicable party at the address shown on the first page of this Contract.

30. **WORK IS A PRIVATE UNDERTAKING -** With regard to any and all Work performed hereunder, it is specifically understood and agreed to by and between the parties hereto that the contractual relationship between the OWNER and CONTRACTOR is such that the CONTRACTOR is an independent contractor and not an agent of the OWNER. The CONTRACTOR, its contractors, partners, agents, and their employees are independent contractors and not employees of the OWNER. Nothing in this Agreement shall be interpreted to establish any relationship other than that of an independent contractor, between the OWNER, on one hand, and the CONTRACTOR, its contractors, partners, employees, or agents, during or after the performance of the Work under this Agreement.

31. **DOCUMENTS - Public Records**: It is hereby specifically agreed that any record, document, computerized information and program, audio or video tape, photograph, or other writing of the CONTRACTOR and its independent contractors and associates related, directly or indirectly, to this Agreement, may be deemed to be a Public Record whether in the possession or control of the OWNER or the CONTRACTOR. Said record, document, computerized information and program, audio or video tape, photograph, or other writing of the CONTRACTOR is subject to the provisions of Chapter 119, Florida Statutes, and may not be destroyed without the specific written approval of the OWNER's City Manager. Upon request by the OWNER, the CONTRACTOR shall promptly supply copies of said public records to the OWNER. All books, cards, registers, receipts, documents, and other papers in connection with this Agreement shall at any and all reasonable times during the normal working hours of the CONTRACTOR be open and freely exhibited to the OWNER for the purpose of examination and/or audit. Failure by CONTRACTOR to grant such access and comply with public records laws and/or requests shall be grounds for immediate unilateral cancellation of this Agreement by the OWNER upon delivery of a written notice of cancellation. If CONTRACTOR fails to comply with this Section, and the OWNER must enforce this Section, or the OWNER suffers a third party award of attorney's fees and/or damages for violating Chapter 119, Florida Statutes, due to CONTRACTOR's failure to comply with this Section, the OWNER shall collect from CONTRACTOR prevailing party attorney's fees and costs, and any damages incurred by the City, for enforcing this Section against CONTRACTOR. And, if applicable, the OWNER shall also be entitled to reimbursement of all attorneys' fees and damages which the OWNER had to pay a third party because of the CONTRACTOR's failure to comply with this Section. The terms and conditions set forth in this Section shall survive the termination of this Agreement.

The CONTRACTOR acknowledges that the OWNER is a Florida municipal corporation and subject to the Florida Public Records Law. CONTRACTOR agrees that to the extent any document produced by CONTRACTOR under this Agreement constitutes a Public Record; CONTRACTOR shall comply with the Florida Public Records Law.

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 AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, THE CITY CLERK, AT (321) 433-8484, cshealy@cocoafl.org, Carie Shealy, City Clerk's Office, 65 Stone Street, Cocoa, Florida 32922.

32. **SOVEREIGN IMMUNITY** - The OWNER intends to avail itself of the benefits of Section 768.28, Florida Statutes and any other statutes and common law governing sovereign immunity to the fullest extent possible. Neither this provision nor any other provision of this Agreement

shall be construed as a waiver of the OWNER's right to sovereign immunity under Section 768.28, Florida Statutes, or other limitations imposed on the OWNER's potential liability under state or federal law. CONTRACTOR agrees that OWNER shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, OWNER shall not be liable for any claim or judgment, or portion thereof, to any one person for over two hundred thousand dollars ($200,000.00), or any claim or judgment, or portion thereof, which, when totaled with all other claims or judgments paid by the State or its agencies and subdivisions arising out of the same incident or occurrence, exceeds three hundred thousand dollars ($300,000.00). Nothing in this Agreement is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. This paragraph shall survive termination of this Agreement.

33. **HEADINGS** - Paragraph headings are for the convenience of the parties only and are not to be construed as part of this Agreement.

34. **INTEGRATION; MODIFICATION** - The drafting, execution, and delivery of this Agreement by the Parties has been induced by no representations, statements, warranties, or agreements other than those expressed herein. This Agreement embodies the entire understanding of the parties, and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof unless expressly referred to herein. Modifications of this Agreement shall only be made in writing signed by both parties.

35. **WAIVER AND ELECTION OF REMEDIES -** Waiver by either party of any terms, or provision of this Agreement shall not be considered a waiver of that term, condition, or provision in the future. No waiver, consent, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each party hereto. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be considered an original agreement; but such counterparts shall together constitute but one and the same instrument.

36. **DRAFTING** - OWNER and CONTRACTOR each represent that they have both shared equally in drafting this Agreement and no party shall be favored or disfavored regarding the interpretation of this Agreement in the event of a dispute between the parties.

37. **NOTICE** - Any notices required to be given by the terms of this Agreement shall be delivered by hand or mailed, certified mail, return receipt requested, postage prepaid to:

For CONTRACTOR:

Company Name:	Elenis Contracting LLC
Attn:	Anargiros Elenis, President
Address:	2533 Coblentz Dr.
	Poland, OH 44514
Phone:	(330) 518-8765
Email:	Aelenis@eleniscontractingllc.com

For OWNER:

City of Cocoa
Attn: City Manager
65 Stone Street
Cocoa, Florida
321-433-8660

Either party may change the notice address by providing the other party written notice of the change. Any Notice given as provided herein shall be deemed received as follows: if delivered by personal service, on the date so delivered; if delivered to an overnight courier service, on the business day immediately following delivery to such service; and if mailed, on the third business day after mailing.

38. **CONFLICT OF INTEREST**.

a. The CONTRACTOR agrees that it will not engage in any action that would create a conflict of interest in the performance of its obligations pursuant to this Contract with the OWNER or which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government and the OWNER's Personnel Policies.

b. The CONTRACTOR hereby certifies that no officer, agent or employee of the OWNER has any material interest (as defined in Section 112.312 (15), Florida Statutes, as over five percent (5%) either directly or indirectly, in the business of the CONTRACTOR to be conducted here, and that no such person shall have any such interest at any time during the term of this CONTRACT.

c. Pursuant to Section 216.347, Florida Statutes, the CONTRACTOR hereby agrees that monies received from the OWNER pursuant to this Agreement will not be used for the purpose of lobbying the Legislature or any other State or Federal Agency.

39. **ADDITIONAL ASSURANCES**.

a. No principal (which includes officers, directors, or executive) or individual holding a professional license and performing Work under this Agreement is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any Work required by this Agreement by any Federal, State, or local governmental commission, department, corporation, subdivision, or agency;

b. No principal (which includes officers, directors, or executive), individual holding a professional license and performing Work under this Agreement, employee, or agent has employed or otherwise provided compensation to, any employee or officer of the OWNER; and

c. No principal (which includes officers, directors, or executive), individual holding a professional license and performing Work under this Agreement, employee or agent has willfully offered an employee or officer of the OWNER any pecuniary or other benefit with the intent to influence the employee or officer's official action or judgment.

40. **E-VERIFY -** Pursuant to section 448.095, Florida Statutes, beginning January 1, 2021, any City contractors shall register with and use the U.S. Department of Homeland Security's E-Verify system, https://e-verify.uscis.gov/emp, to verify the work authorization status of all employees hired on and after January 1, 2021. City Contractors must provide evidence of compliance with section 448.095, Florida Statutes. Evidence shall consist of an affidavit from the Contractor stating all employees hired on and after January 1, 2021 have had their work authorization status verified through the E-Verify system and a copy of their proof of registration in the E-Verify system. Failure to comply with this provision will be a material breach of the contract, and shall result in the immediate termination of the contract without penalty to the City. The City Contractor shall be liable for all costs incurred by the City securing a replacement contract, including but not limited to, any increased costs for the same services, any costs due to delay, and rebidding costs, if applicable. If the City Contractor utilizes Subcontractors the following shall apply:

a. Contractor shall also require all subcontractors performing work under the Agreement to use the E-Verify system for any employees they may hire during the term of the Agreement.

b. Contractor shall obtain from all such subcontractors an affidavit stating the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, as defined in section 448.095, Florida Statutes.

c. Contractor shall provide a copy of all subcontractor affidavits to the City upon receipt and shall maintain a copy for the duration of the Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seal on the date first above written.

OWNER
CITY OF COCOA

By: _____
Michael Blake, Mayor

Date: _____

ATTEST:

_____
Carie Shealy, City Clerk

CONTRACTOR

ELENIS CONTRACTING LLC

By: Anargiros Elenis
Anargiros "Anadio" Elenis, President

Date: 2/23/23

STATE OF Ohio
COUNTY OF Mahoning

The foregoing instrument was acknowledged before me by means of (X) physical presence or (___) online notarization, this 23rd day of February, 20 23, by Anargiros Elenis, the President of Elenis Contracting LLC, who is personally known to me or who produced Driver's License as identification and who did take an oath.

(Notary Public Signature)

SARAH CRAIG
(Print Name)
Notary Public, State of OHIO
Commission No.: ___
My Commission Expires: 04/15/2023

NOTARY PUBLIC * STATE OF OHIO *

SARAH A CRAIG
Notary Public, State of Ohio
My Comm. Expires April 15, 2023
Recorded in Mahoning County

EXHIBIT A

Performance and Payment Bond

In compliance with the Florida Statutes Chapter 255.05 (1) (a)

BOND NO.:	
Contractor Name:	
Contractor Address:	
Contractor Phone No.:	
Surety Company:	
Surety Agent:	
Owner Name:	City of Cocoa
Owner Address:	65 Stone St.
	Cocoa, Florida 32922
Owner Phone No.	(321) 433-8833
Owner Fax No.	(321) 433-8860
Owner Email:	Purchasing@cocoafl.org
Contract Date:	
Contract Amount:	$
Bond Amount:	$
Contract No. (if applicable):	
Description of Work:	
Project Address:	
Legal Description:	
Bid Number:	

BY THIS BOND, we _____ as Principal

and _____ a Corporation as Surety,

are bound to ___City of Cocoa_____, herein called Owner, in the sum

of $ _____, for payment of which we bind

ourselves, our heirs, Personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

a. Performs the contract dated _____, 20_____, between Principal and Owner for construction of _____ as specified for the _____ location, the contract being made a part of this bond by reference, at the times and in the manner prescribed in this contract; and
b. Promptly makes payments to all claimants, as defined in section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution if the work provided for the contract; and
c. Pays Owner all losses, damages, including delay damages, expenses, and costs that Owner sustains because of a default by Principal under the contract; and
d. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract and by law, then this bond is to be void; otherwise it remains in full force and effect.
e. In any action against this performance bond, the Owner is entitled to attorney's fees under sections 627.428 and 627.756, Florida Statutes, and Danis Industries Corp. v. Ground Improvement Techniques, 645 So.2d 420 (Fla. 1994) and McCarthy Bros. Co. v. Tilbury Construction, Inc., 849 So.2d 7 (Fla. 1st DCA 2003), including appellate attorney's fees.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes.

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety's obligation under this bond.

IN WITNESS WHEREOF, the said Principal and Surety have assigned and sealed this instrument this _____ day of _____ 20_____.

CONTRACTOR AS PRINCIPAL

Company:

_____

(Corporate Seal)

Signature_____

Title_____

SURETY

Company:

_____

(Corporate Seal)

Signature_____

Title_____

EXHIBIT B

ITB B-23-14-COC
Published January 11, 2023

EXHIBIT C

Elenis Contracting LLC Response
Dated February 15, 2023

RESOLUTION NO. 2023-020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA; AUTHORIZING THE CITY MANAGER TO APPROVE AND EXECUTE CHANGE ORDERS TO THE PRIMARY CONSTRUCTION CONTRACT AND ANY ADDITIONAL SERVICE CONTRACTS RELATED TO THE COMPLETION OF THE GROUNDWATER FILTER #3 IMPROVEMENTS PROJECT, NO. WS23DF, IN AN AMOUNT NOT TO EXCEED THE TOTAL AMOUNT BUDGETED FOR THE PROJECT BY THE CITY COUNCIL INCLUSIVE OF THE 10 PERCENT CONTINGENCY SET ASIDE FOR THE PROJECT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 2-4 of the City Code provides that with respect to construction contracts approved by the City Council, the City Council may authorize by resolution the City Manager to approve change orders to the primary construction contract and any additional service contracts related to the completion of the construction project authorized by the City Council in excess of the spending authority limits under this section provided the amount is within the unexpended construction budget approved by the City Council for the project including any contingency funds approved by the City Council for said contract; and

WHEREAS, on March 14, 2023, the City Council authorized the City Manager to proceed with the Groundwater Filter #3 Improvements Project, Project No. WS23DF, subject to certain terms and conditions and budget adjustments approved by the City Council; and

WHEREAS, in conjunction with this authorization, the City Council desires to streamline the approval of change orders and any additional service contracts to the extent necessary in order to expedite the construction of the project; and

WHEREAS, the City Council deems it to be in the best interest of the City of Cocoa to authorize the City Manager to approve the aforementioned change orders and any additional service contracts consistent with the terms of this Resolution and Section 2-4 of the City Code even if said amounts exceed the City Manager's general spending authority approved by the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, as follows:

SECTION 1.

(A) Pursuant to Section 2-4 of the City Code, the City Manager is hereby authorized to approve any change orders to the primary construction contract and any additional service contracts related to the construction project regarding the Groundwater Filter #3 Improvements Project, Project No. WS23DF, provided the total amount of approved change orders and any additional service contracts do not exceed the construction budget. The construction budget is $424,121, with an additional 10% contingency in the amount of $42,413 set aside for possible change orders, for a total of $466,534 for the project. This grant of spending authority shall be interpreted and construed in accordance with the provisions of Section 2-4 of the City Code.

(B) Pursuant to Section 2-4 of the City Code, the City Manager shall also provide notice of any such approved change orders and any additional service contracts to the City Council in the form of an agenda item at the next scheduled City Council meeting or as soon as practicable thereafter.

SECTION 2. All prior resolutions or prior resolutions inconsistent with this resolution are hereby repealed to the extent of the conflict.

SECTION 3. This resolution shall become effective immediately upon its adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on March 14, 2023.

_____
Michael C. Blake, Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk

RESOLUTION NO. 2023-021

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AMENDING THE CITY OF COCOA BUDGET FOR FISCAL YEAR 2023; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Cocoa adopted the final budget for the fiscal year commencing on October 1, 2022, and ending on September 30, 2023, at a Regular meeting held on September 27, 2022; and

WHEREAS, in accordance with Article XII, Section 5 of the City of Cocoa Charter, whereby the Council may, at any time by resolution, transfer any unused and unencumbered appropriation or portion thereof from one office or department to another; and

WHEREAS, the City Council deems it to be in the best interest of the City of Cocoa to amend its budget as provided in this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, as follows:

SECTION 1. The 2022-2023 fiscal year budget shall be amended as detailed in the attached sheets.

SECTION 2. All prior resolutions or prior resolutions inconsistent with this resolution are hereby repealed to the extent of the conflict.

SECTION 3. This resolution shall become effective immediately upon its adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, at the Budget Workshop assembled on the 14th day of March, 2023.

_____
Michael C. Blake, Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk

City of Cocoa Budget Adjustment Form FY 2023 - 23-046-T

SELECT ADJUSTMENT TYPE: BUDGET TRANSFER

REQUESTING DEPARTMENT #: Utilities/4055 DATE PREPARED: 02/21/23

'FROM' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
($ 171,534)	424-4055-536.63-00	WS1201	Water Sewer/infrastructure	$ 12,316,000	$ 18,959,587	$ 18,788,053	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
($ 171,534)	TOTAL						

'TO' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 171,534	424-4020-536.63-00	WS23DF	Water Sewer/infrastructure	$ 2,305,000	$ 2,401,473	$ 2,573,007	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 171,534	TOTAL						

REASON/JUSTIFICATION FOR ADJUSTMENT:

This project is to replace the IMS caps and filter media in filter #3 and was budgeted in FY23 as WS23DF. The bid for this project was higher then what was initially budgeted ($295,000). The low bid total was $424,121 plus a 10% contingency for a total needed budget of $466,534. This BAF is to transfer the difference between budgeted and actual need of $171,534. Agenda 23-135.

Council/Board APPROVAL REQUIRED? *YES* (●) *NO* ( ) *DATE APPROVED:* 03/14/23 *RESOLUTION #:* 2023-021

City Council approval is needed for all transfers greater than $50,000 and transfers between Departments / Funds. All CRA adjustments are required to go their respective boards.

2/21/23	Katherine Ennis Digitally signed by Katherine Ennis Date: 2023.02.21 10:28:13 -05'00'	2/21/23	Colleen Campbell Digitally signed by Colleen Campbell Date: 2023.02.28 07:40:43 -05'00'		
Date	Requestor's Signature	Date	Finance Approval Signature	Date	Finance Director's Signature
	John "Jack" Walsh Digitally signed by John "Jack" Walsh Date: 2023.02.21 11:00:12 -05'00'	3/1/23	Lora Howell Digitally signed by Lora Howell Date: 2023.03.01 13:13:49 -05'00'		
Date	Department Director's Signature	Date	Deputy Fin. Director's Signature	Date	City Manager's Signature

FINANCE USE ONLY:

Date Entered: _____ Entered By: _____ Group #: _____

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Issuance | Release Date: Wednesday, January 11, 2023
To: All Prospective Bidders
From: Brian Dale, Purchasing Manager

The City of Cocoa is accepting sealed bids from all licensed, qualified firms or individuals interested in providing the construction services as described in this Invitation to Bid (ITB).

Summary of Project:
The City of Cocoa is soliciting for a contractor to provide the labor, material, and equipment to replace the Integral Media Support (IMS) Caps and media in Groundwater Filter #3 at the Dyal Water Treatment Plant (WTP). The Dyal WTP is located at 28400 SR 520, Christmas, FL 32709 and has a total of six (6) double-cell, dual-media gravity filters in its groundwater treatment train. All filters utilize the Leopold Type S underdrain system, with traditional sintered-bead integral media support (IMS) caps in lieu of support gravel, a 12" layer of silica sand, and an 18" layer of anthracite coal.

If you are interested in preparing a response to this ITB, please read the requirements carefully and complete the bid in the manner as set forth in this ITB document. Your response is considered a binding offer to perform in the manner described in the bid response and shall remain a firm offer for a period of ninety-day (90) days from public opening.

There will be a MANDATORY Pre-Bid conference held for this project Wednesday, January 25, 2023 at 10:00am EST at the Dyal Water Treatment Plant located at 28400 SR 520, Christmas Florida 32709. A site walk through to follow the presentation. A representative of your firm must attend the meeting for your bid submittal to be considered responsive.

Questions regarding this solicitation must be received in writing at the address above no later than Wednesday, February 8, 2023 at 5:00pm EST. Responses to those questions considered material to the solicitation shall be distributed via formal addenda and posted to the City of Cocoa website: https://www.cocoafl.gov and to the City's online bidding platform, Vendor Link, http://www.myvendorlink.com.

All Bidders are advised that under Chapter 119, Florida Statutes, all responses are deemed a public record and open to the public as provided for in said statute.

The successful Bidder(s) must demonstrate in their submittal to be the lowest, most responsible, and responsive Bidder which best meets the specifications and serves the overall needs of the City. Bids should be prepared in accordance with the ITB instructions and recheck all bid prices thoroughly. Failure to provide the response in the manner prescribed herein may be grounds for disqualification of the submittal.

All services performed shall be in accordance with the specifications pertaining thereto, which may be examined at the office of the Purchasing & Contracts Manager, located at 65 Stone St., Cocoa, Florida 32922. Copies of all documents, including blank bid/proposal forms, may be obtained from Vendor Link by visiting their web site at http://www.myvendorlink.com. You may contact the City of Cocoa Purchasing Division by email:

purchasing@cocoafl.gov. Small Business Set Asides (i.e., Woman Owned, Minority, Veteran, Disadvantaged etc.) are encouraged to submit bid/proposals concerning this solicitation.

The City of Cocoa supports local vendors and offers a five (5%) percent preference given to Brevard County contractors / contractors whose physical business address is within the physical boundaries of Brevard County and such location is evidenced by the local business tax receipt issued for at least six (6) months prior to the date the bid is submitted. P.O. Boxes shall not be considered a physical business address. The City reserves the right to reject any or all bid/proposals, with or without a cause; to waive technical errors and informalities; and to award bid/proposals to the lowest responsive, responsible bid/proposer. One or more of the City Council members may be present at the bid/proposal opening.

The City reserves the right to waive any and all technicalities, formalities and to reject any or all bid submittals or to re-advertise for bid submittals for these commodities/services. The City may withdraw all or part of this ITB at any time to protect the interests of the City. Thank you for your interest in doing business with the City of Cocoa, Florida.

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023

TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement

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TECHNICAL SPECIFICATIONS AND EXHIBITS ARE ATTACHED IN THE DOCUMENT TITLED "EXHIBIT A:TECHNICAL SPECIFICATIONS", APPENDIX A-D 66

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	**Due Date: 02/15/2023**
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

SECTION 1 INTRODUCTION

1.01 DESCRIPTION OF WORK

The scope of services required for the removal and replacement of existing filter media and IMS caps in Groundwater Filter #3 are, but not limited to, the following generally described items:

1. Removal of existing filter media (sand and anthracite) and disposal.
2. Removal and installation of grout fillets and seal channels.
3. Removal, replacement, inspection and testing of underdrain IMS caps.
4. Pressure washing of interior surface of each filter basin, overflow troughs and media retaining weirs (Bid Alternate).
5. Coating of filter basin interior (Bid Alternate).
6. Procurement of filter media to the plant.
7. Installation of filter media.

Proposers are directed to purchase filter media from Leopold as shown in appendix A. No substitutions or "equal" equipment will be accepted. All work is to be performed in accordance with the Leopold field installation guidelines attached to this solicitation in appendix B. Bidders are expected to review, understand and adhere to all technical specifications shown in appendices C and D.

1.02 MINIMUM QUALIFICATIONS

Bidders responding to this ITB must demonstrate experience and qualifications in performing work similar in size and complexity to this project. Each Bidder must submit the following required information:

1. Must be licensed in the state of Florida as a General Contractor with a minimum of three (3) years of experience in performing work similar in size and scope as detailed herein.
2. Previous Experience and References: Contractor shall have previous experience in filter replacement similar to the size and type of filters for this project using vacuum extraction of media and conveying media slurry as described in this specification and shall have performed a minimum three (3) filter media replacement projects within the past five (5) years that are similar to the work described previously. Provide a brief description of work, including location, dates of contract, names, addresses, email addresses, and telephone numbers of owners by completing **the Reference Form, Attachment "L" included herein**.
3. Evidence of authority to conduct commercial business in the State of Florida - Provide Sunbiz report showing your company registered as "Active".
4. Professional Licenses – Provide all licenses that qualify the firm for the type of work as identified herein.
5. Bonds –Provide applicable bond documents as defined in section 3.02 of this request.
6. Note if you are not a single prime contractor, you will be required to list, using attachment "K" all subcontractors to be used for this project and their professional licenses.
7. Provide a completed W9 according to section 4.02 of this request.
8. Complete in full all required attachments associated with this request.

1.03 PROJECT COMPLETION TIME

The successful bidder shall commence work within Ten (10) days after having been issued a notice to proceed which may be in the form of a purchase order issued by the City. The Work will be substantially complete within One Hundred and Fifty (150) days after the notice to proceed. Final completion will be within Thirty (30) days of substantial completion.

1.04 SOLICITATION SCHEDULE (This schedule may be revised, as needed)

Tentative Schedule (all Local Times)	
Task	**Date**
ITB Released	**Wednesday, 01/11/2023 at 8:00am EST**
Mandatory Pre-Bid Conference	**Wednesday, 01/25/2023 at 10:00am EST**
Deadline for Questions	**Wednesday, 02/08/2023 at 5:00pm EST**
Bid Due Date and Time	**Wednesday, 02/15/2023 at 3:00pm EST**
Anticipated Notice of Intent to Award	**February 2023**
City Council Approval of Contract	**March 2023**

Section 2 INSTRUCTIONS TO BIDDERS

2.01 BID DOCUMENTS

The ITB documents may be obtained at no charge from the City's website at: VendorLink, LLC https://www.myvendorlink.com. The City of Cocoa's Purchasing & Contracts Division, its Website, and its service provider, VendorLink, LLC are the **only authorized** sources for obtaining solicitation documents. Solicitation documents and forms obtained from any other third-party source may be incomplete.

Bidders are encouraged to register as a vendor with VendorLink, LLC to obtain a complete set of solicitation documents and to enable notification of required addenda. Reproduction of these documents without the express permission of the City is prohibited.

The City is not responsible for errors or document omissions occurring in the transmission or downloading of any documents from these websites. In the event of any discrepancy between information on these websites and the hardcopy specifications, the terms of the hardcopy specifications shall prevail. For more information call the Purchasing & Contracts Division at (321) 433-8833. Important: The desire of the City to pursue bid submittals shall in no way obligate the City to compensate you for your efforts or to execute a contract with your firm.

2.02 BID SUBMITTAL AND DELIVERY

A. Sealed bid submittals must be received in the City's Purchasing & Contracts Division no later than the date and time as specified herein. Bid submittals received after the stated date and time will not be accepted and will be returned unopened. Under no circumstances shall bids delivered after the time specified be considered. The City shall not be responsible for any occurrence for bid submittals delivered incorrectly or to the wrong address or location. No exceptions will be made. The decision to refuse to consider a bid that was received beyond the date/time established in the solicitation shall not be the basis of a protest. Bid submittals shall be delivered to the below address in a sealed envelope or packaging material, plainly marked on the outside with the Bid Number, Title and opening date:

City of Cocoa
Attn: Purchasing & Contracts Division
65 Stone Street
Cocoa, Florida 32922

For your convenience, a **Solicitation Response Identification Label** has been provided to properly identify and affix to your ITB response.

B. If submitted by mail, the bid submittal shall be enclosed in a sealed envelope or packaging material addressed to the Purchasing & Contracts Division. Bids submitted by mail must be received by the Purchasing & Contracts Division by the time specified herein for the opening thereof.

1. Please be advised that United States Postal Service (USPS) Express and Priority service class; are delivered to the City once daily. Accordingly, in order for a submission to be received by the Purchasing & Contracts Division when the services of the USPS are used, a Bidder or bidder is responsible for ensuring that their submittal is transmitted in such manner as necessary for the USPS to receive, sort, and deliver to the City by the submittal due date and time.

2. The City only collects other USPS mail one (1) time per day upon opening of the local Post Office branch, which is then sorted by the City for delivery to the Purchasing & Contracts Division and other City departments. Submissions arriving at the USPS after the initial pick-up by the City will be placed in the City's callbox for pick-up and will not be delivered to or received by the Purchasing & Contracts Division until the next business day.

3. When using the USPS or any other mail delivery services, it is the sole responsibility of the Bidder to ensure that Proposals are received in the Purchasing & Contracts Division by the due date and time. The City shall not be responsible for delays caused by any occurrence.

2.03 PUBLIC OPENING

A. Bid submittals will be publicly opened by the Purchasing & Contracts Division on the due date and time, as specified herein, or as soon thereafter as possible. The Bidder's names, the Bid Total and verification of bond submittal, if applicable, will be announced. Sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation are exempt from s. 119.07(1) and s. 24(a), Article I of the State Constitution until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier. All other information will be subject to Florida's Open Government Laws to Public Contracting.

B. A bid summary of the Bids and major alternates (if any) will be prepared and made available within a reasonable time after the opening of Bids.

C. Multiple Bids received for the same Work from an individual, firm or partnership, a corporation or association or other legal entity under the same or different names shall not be considered. If there are reasonable grounds for believing that collusion exists among the Bidders, the Bids of the participants believed to be in such collusion shall not be considered.

D. The City reserves the right to reject any and all Bids, to waive irregularities, and the right to disregard any or all nonconforming, unbalanced or conditional Bids or counter proposals.

E. The City may reject, as non-responsive, Bid submittals that fail to acknowledge receipt of addenda as prescribed, when the addenda results in a material change.

F. If the City elects to accept a Bid which does not acknowledge receipt of an addendum, the Bid shall be construed as though the addendum had been received and acknowledged by the Bidder.

G. Discrepancies between bid sums expressed in words and bid sums expressed in figures shall be resolved in favor of the words. Discrepancies between the sum of any column of figures and the correct sum, shall be resolved in favor of the corrected sum. Discrepancies in the extension of the Unit Price times the estimated quantity for any line item shall be resolved in favor of the correct extension.

2.04 UNBALANCED BIDS

As determined by the City and the Procurement Administrator's discretion, the City may consider a solicitation response irregular and reject it if any of the prices are excessively unbalanced (either above or below the amount of a reasonable response) to the potential detriment of the City. The City further reserves the right to require backup documentation from the respondent if, in the City's opinion, the prices are, or appear to be, excessively unbalanced.

2.05 ON-LINE SERVICE PROVIDER DISCLAIMER

VendorLink, LLC has no affiliation with the City other than as a service that facilitates communication between the City and its vendors. VendorLink, LLC is an independent entity and is not an agent or representative of the City. Communications to VendorLink, LLC do not constitute communications to the City.

2.06 SOLICITATION DOCUMENTS

The City of Cocoa Purchasing & Contracts Division, its website, and its service provider, VendorLink, LLC are the only authorized sources of solicitation documents/forms. Solicitation documents/forms obtained from any other third-party source may be an incomplete set of documents. Proposers using solicitation documents/forms obtained from any other third-party source are advised to register with VendorLink, LLC to obtain a complete set of solicitation documents and to enable notification of required addenda. Reproduction of these documents without the express permission of the City is prohibited.

2.07 MANDATORY PRE-BID MEETING

There will be a MANDATORY Pre-Bid conference held for this project on Wednesday, January 25, 2023 at 10:00am EST at the Dyal Water Treatment Plant located at 28400 SR 520, Christmas Florida 32709. A site walk through to follow the presentation. Any changes or updates to this meeting including additional instructions will be posted to the City's online bidding platform, Vendor Link, http://www.myvendorlink.com**.**

IMPORTANT NOTE: It is imperative that all Bidders have a clear understanding of the scope of services requirements. As such, the City reserves the right to require a mandatory pre-bid conference. Therefore, in the event a mandatory pre-bid conference is required and/or subsequently scheduled, attendance will be a pre-requisite for a bid submittal; and bid submittals will only be accepted from those who are represented at a mandatory pre-bid conference. Attendance at the pre-bid conference will be evidenced by the Bidder's/representative's signature on the attendance roster. In the event of a mandatory pre-bid conference, the time, date, and location of the meeting will be noted in the released Addendum notifying such requirement. Please plan your travel time accordingly.

2.08 CONE OF SILENCE/LOBBYING

A. Lobbying is defined as any action taken by an individual, firm, association, joint venture, partnership, syndicate, corporation, and/or all other groups who seek to influence the governmental decision of a City Council Member, the City Manager, any requesting or evaluating Department/Division/Office personnel and/or any member of the Evaluation Committee concerning an active solicitation during the black-out period.

B. A lobbying black-out period commences upon the issuance of this solicitation document.

C. If an award item is presented to City Council for approval or for a request to provide authorization to negotiate a Contract(s) and the City Council refers the item back to the City Manager, Purchasing

& Contracts Division and/or requesting Department/Division/Office for further review or otherwise does not take action on the item, the Cone of Silence/Lobbying Black-out Period will be reinstated until such time as the City Council meets to consider the item for action.

D. Bidders, respondents, potential vendors, service providers, lobbyists, consultants, or vendor representatives shall not contact any City Council member, the City Manager, any requesting or evaluating Division/Department/Office personnel, and/or any member of the Evaluation Committee concerning an active solicitation during the Cone of Silence/Lobbying Black-out Period.

2.09 INTERPRETATIONS AND QUESTIONS

All questions and inquiries concerning procedural matters shall be directed to the Purchasing & Contracts Division. Any questions relating to the interpretation of specifications or any aspect of the solicitation process shall be addressed to the Purchasing & Contracts Division, in writing, by the date stipulated in the tentative schedule in Section 1.

City of Cocoa
Purchasing & Contracts Division
65 Stone Street
Cocoa, Florida 32922
Phone: (321) 433-8833
Email: purchasing@cocoafl.gov

A. It is the Bidder's responsibility to become familiar with and fully informed with the terms, conditions, and specifications of this ITB. Lack of understanding and/or misinterpretation of any portions of this ITB shall not be cause for withdrawal of your response after opening or for subsequent protest of award.

B. Any interpretations, clarifications, or changes will be made in the form of written addenda issued by the Purchasing & Contracts Division.

C. Any oral communications will not be authoritative and will not be binding on the City.

D. It is the sole responsibility of the Bidder to contact the Purchasing & Contracts Division **prior** to submitting a bid submittal to ascertain if any addenda have been issued, to obtain all such addenda, and to return executed addenda with each bid submittal.

E. Addenda will be available to all proposers and will be uploaded to VendorLink, LLC on the Procurement website at: http://www.myvendorlink.com.

2.10 BID COMPLETENESS AND COMPLIANCE

Bid submittals shall contain the information as required in this solicitation. Failure to submit all information as requested, substantially incomplete or lack key information may be rejected by the City. The following list details the appropriate proposal format:

A. All items contained in the bid must be in total compliance with the specifications of this solicitation.

B. Alternate bids will not be considered unless specifically called for in this solicitation. Bidders' attention is specifically called to the terms, conditions and special provisions of this solicitation. Please be aware that, under the competitive process, the stipulations set forth herein are fully binding on the Bidder to the extent that you confirm acceptance by your signature on **Attachment, Bid Price Schedule and Acceptance of Bid Terms and Conditions**.

2.11 DETERMINING RESPONSIBILITY

The determination as to whether a Bidder is considered responsible shall be at the sole discretion of the City. The City may request information relating to contracts similar to the requirements of this solicitation. The City also reserves the right to reject the bid of a bidder who has previously failed to perform properly or complete projects timely, whose investigations show bidder is not in a position to perform the contract. In determining responsibility, the following qualifications, in addition to price, may be considered:

A. The Bidder's ability, capacity, and skill to provide the goods or to perform the service within the time specified;
B. The character, integrity, reputation, judgement, experience and efficiency of the Bidder;
C. The quality of performance of previous contracts or services including previous performance with the City;
D. The sufficiency of financial resources to meet the obligations of the required contract and to perform the services;
E. Quality Control Program.
F. Contract claims, litigation filed against the Bidder or filed by the Bidder for equitable adjustment; Reprimand of any nature or suspension by the Department of professional Regulation or any other regulatory agency or professional association in the past five (5) years.
G. Ability to provide future maintenance, service, and support of the goods/services under contract; and,
H. Whether the Bidder is in arrears to the City on a debt or a contract or is a defaulter on surety to the City; or whether the Bidder's taxes or assessments are delinquent.
I. Such other information as may be relevant or secured.

2.12 BID FORMS/REPRODUCTION

A. Bid Forms: All bids must be submitted on the City's standard solicitation forms and must include all applicable completed attachments included herein.

B. Reproduction: Please submit one (1) bound original and one (1) on a USB containing the entire bid submittal formatted to be read with Microsoft® software products or Adobe® PDF software.

2.13 BIDDER ACKNOWLEDGEMENT

By submitting a bid response, the Bidder certifies that the Bidder has fully read and understands this ITB document and has full knowledge of the scope, nature, quantity, and quality of work to be performed; the detailed requirements of the services to be provided; and the conditions under which the services are to be performed.

2.14 BIDS TO REMAIN FIRM

All bids shall remain firm for ninety (90) Days after the day of the Bid opening, but City may, in its sole discretion, release any Bid and return the Bid Security prior to that date.

2.15 COST OF SUBMITTAL

The Bidder understands that any and all costs related to the submittal of a proposal is considered an operational cost of the Bidder and shall not be passed on to or be borne by the City. By submission of a bid, the Bidder agrees that any and all costs associated with the preparation of the bid will be the sole responsibility of the Bidder. The Bidder also agrees that the City shall bear no responsibility for any costs associated with the preparation of the bid including but not limited to any administrative or judicial proceedings resulting from the solicitation process.

2.16 IMPROPER IDENTIFICATION AND TIMELINESS

The City is not responsible for the failure of a Bidder or the Bidder's agent to submit responses in a timely manner or for a bid submittal that is not properly addressed or identified. Bid submittals by email, telephone or fax shall be rejected as non-responsive regardless of where it is received.

2.17 CORPORATE STANDING AND AUTHORIZED SIGNATORY

The Proposer must demonstrate that the company is in good standing and that the person signing this proposal is an authorized signatory on behalf of the Proposer to negotiate and/or sign contracts, agreements, amendments and related documents to which the Proposer will be duly bound. Examples of satisfactory demonstration documents include:

A. A copy of your Articles of Incorporation listing the approved signatories of the corporation.
B. A copy of a resolution listing the members of staff that are authorized signatories for the company.
C. A letter from a corporate officer listing the members of staff that are authorized signatories for the company.

Failure to sign and witness the Proposer's signature form may result in disqualification of the bid. Please be sure the bid is signed, properly witnessed, and sealed.

2.18 PROPRIETARY INFORMATION

A. In accordance with Chapter 119 of the Florida Statutes (Public Records Law); and except as it may be provided by other applicable State and Federal Law, all Bidders should be aware the Invitation to Bid, and the responses thereto are in the public domain. Bidders are requested to identify specifically any information contained in their bid submittals which they consider confidential and/or proprietary and which they believe to be exempt from disclosure, citing specifically the applicable exempting law.

B. A generic notation that information is "confidential" is not sufficient. Failure to provide the Purchasing & Contracts Division with a detailed explanation and justification including statutory cites and specific reference to your bid submittal detailing what provisions, if any, you believe are exempt from disclosure, may result in your entire bid submittal being subject to disclosure in accordance with Chapter 119 of the Florida Statutes.

2.19 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

By submission of a response, the Bidder certifies that in connection with this bid submittal:

A. The pricing and/or fees associated with this bid submittal have been arrived at independently, without consultation, collusion, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor.

B. Unless otherwise required by law, the prices which have been quoted on this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly to any other Bidder or to any competitor.

C. No attempt has been made or shall be made by the Bidder to induce any other person or Bidder to submit or not submit a bid for the purpose of restricting competition.

2.20 FAILURE TO COMPLY WITH BID INSTRUCTIONS

Failure to comply with any of the foregoing instructions, provide a bid submittal in the manner prescribed herein or any other essential element of this Invitation to Bid may be grounds for disqualification of your bid submittal.

2.21 AMERICANS WITH DISABILITIES ACT

Persons with disabilities needing a special accommodation to participate in this proceeding should contact the Purchasing & Contracts Division, City of Cocoa, 65 Stone Street, Cocoa, Florida 32922, telephone (321) 433-8833, not later than seven (7) days prior to the date on which the accommodation is requested.

2.22 OFFICE OF RECORD

The City of Cocoa Purchasing & Contracts Division shall be the official "office of record" for all information transactions and data disbursements associated with this solicitation. The Purchasing & Contracts Division may be reached Monday through Friday between 8:00 A.M. to 5:00 P.M., Local Time via phone at (321) 433-8833.

2.23 MODIFICATION OR WITHDRAWAL OF BIDS

Bid modifications will be accepted from a bidder only if received in writing, properly signed by an officer of the bidder, and received prior to the opening of bids. Bid modifications must be identified as such and will be opened with the bidder's bid form.

Bids may be withdrawn by request of the bidder prior to the time fixed for opening. Error or negligence on the part of the bidder in preparing the bid confers no right for the withdrawal of the bid after the public opening date.

2.24 CONFLICTS WITHIN SOLICITATION

Where there appears to be a conflict between the General Terms and Conditions, Special Conditions, the Technical Specifications, the Bid Form, or any addendum issued, the order of precedence shall be: the last addendum issued, the Bid Form, the Technical Specifications, the Special Conditions, and then the General Terms and Conditions. It is incumbent upon the vendor to identify such conflicts to the designated procurement representative prior to the bid or proposal response date.

2.25 JOINT VENTURES

All Bidders intending to submit a bid response as a Joint Venture are required to have filed proper documents with the Florida Department of State, the Division of Professions, Construction Licensing Board and/or any other state or local licensing Agency prior to submitting a bid response. Please refer to Section 489.119 Florida Statutes.

Joint Venture Firms must provide an affidavit attesting to the formulation of a joint venture and provide either proof of incorporation as a joint venture or a copy of the formal Joint Venture Agreement between all joint venture parties, indicating their respective roles, responsibilities and levels of participation for the project.

SECTION 3 SPECIAL CONDITIONS

3.01 BID SECURITY BOND

The Bid response shall be accompanied by a Bid Security Bond equaling five percent (5%) of the total Bid price. Failure of the Bidder to supply same, in the amount and type required, shall automatically render the Bidder as non-responsive resulting in the disqualification from further consideration of their Bid response. Please complete and submit **Bid Security Bond form, attached herein.**

A. The Bid Security Bond shall be submitted in the form of a Bid Bond in the amount of five percent (5%) of the total Bid price, made payable to the City of Cocoa, issued by a surety firm and through a reputable and responsible surety bond agency licensed to do business in the State of Florida.

1. The surety must be rated as "A"® or better as to strength by Best's Insurance Guide, published by A. M. Best Company, Inc., located at 1 Ambest Road, Oldwick, New Jersey 08858. For the latest ratings and Insurance Guide, access www.ambest.com.
2. In lieu of a Bid Bond, the Bidder may submit cash (U.S. currency only), money order, certified or cashier's check drawn from a national or state bank whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC), in the amount of five percent (5%) of the total Bid price. Money orders and checks must be made payable to the City of Cocoa and shall accompany your bid submittal.
3. The terms of the ITB Security Bond shall be:
    a. The Bidder shall enter into an Agreement if awarded to the Bidder;
    b. The surety (or alternate form of security forfeit) shall be responsible for the costs resulting from the failure of the Bidder to enter into an Agreement if awarded to the Bidder; including the increased costs associated with awarding to the next most responsive, responsible Bidder and costs associated with conducting the Bid process and letting the Agreement;
    c. To promptly enter into an Agreement to perform the work and furnish the required Performance and Payment Bond, if applicable; and
    d. Any interest earned as a result of the City depositing the accepted money order, certified or cashier's check, or cash received as Bid Security Bond into an interest bearing account, shall be retained by the City.

B. Return of Bid Security Bond: As soon as the bid responses have been evaluated, the City may, at its sole discretion, return or release the Bid Security Bonds accompanying such bid responses, which in its sole judgment, would not likely be considered for award. All other Bid Security Bonds will be held until award of this project and the agreement has been executed by the successful Bidder; after which any remaining Bid Security Bonds will be returned to the respective Bidders. It shall be the sole responsibility of the Bidder to request in writing from the City the return of the Bid Security Bond or alternative form of security used. Bid Security Bond or alternative form of security used shall not be returned unless requested by the Bidder in writing.

3.02 PERFORMANCE AND PAYMENT BONDS

Upon award of this project, the successful Bidder shall furnish Performance and Payment Bonds, or alternative form of performance and payment security such as; a money order, certified or cashier's check, cash (U.S. currency only), letter of credit; equaling one hundred percent (100%) of the total contract amount awarded under this solicitation. Receipt of said Performance and Payment Bonds shall occur no later than fifteen (15) calendar days after receipt of notification of Award. No commencement of work shall be authorized by the City without receipt of the Performance and Payment Bond or alternative security.

A. The Performance and Payment Bond shall be made payable to the City of Cocoa, issued by a reputable Surety firm licensed to do business in the State of Florida (F.S. 255.05). On approval of any Contract change increasing the Contract price, Contractor shall ensure that the performance bond and the payment bond is increased so that each reflects the total Contract price as increased.

1. The Surety must be rated as "A"® or better as to strength by Best's Insurance Guide, published by A. M. Best Company, Inc., located at 1 Ambest Road, Oldwick, New Jersey 08858. For the latest ratings and Insurance Guide, access www.ambest.com
2. The terms of the Payment and Performance Bond shall guarantee that:

    a. The successful Bidder shall assure faithful performance of this project;
    b. The successful Bidder shall assure timely payments to all persons providing labor, materials and/or supplies used in the performance of the work associated with this project;
    c. Nothing in this section shall be construed to limit the authority of the City Council, the City Manager, or the Procurement Administrator to require other security in addition to, or in lieu of, those bonds or in circumstances other than those specified herein, when in the best interest of the City.

B. If the bond is based on an annual coverage basis, renewal for each succeeding year shall be submitted to the City thirty (30) days prior to the termination date of the existing Performance Bond. The Performance Bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida and having a resident agent.

C. Return of Payment and Performance Bond. It shall be the sole responsibility of the successful Bidder to request in writing from the CITY the return of the Payment and Performance Bond. The request shall be considered no earlier than thirty (30) calendar days upon completion and final acceptance of the City, or expiration in a satisfactory manner of the awarded Agreement associated with this project. Payment and Performance Bonds shall not be returned unless requested by the successful Bidder in writing.

3.03 TIME FOR COMPLETION AND LIQUIDATED DAMAGES

It is understood and agreed that time is the essence of the Contract, and that failure on the part of the Contractor to complete the Contract Work within the time stated in the Agreement will result in certain loss and damage to the CITY.

It is therefore covenanted and agreed that, if the Contractor shall fail or neglect to complete his Work on or before the date fixed for completion by these Documents, then said Contractor agrees to pay to the CITY, as Liquidated Damages, the amounts specified herein are consistent with the current Florida Department of Transportation Standard Specifications for Road and Bridge Construction, (FDOT Specifications), Section 8-10, as amended that the City shall act as the Department.

Upon failure of Contractor to obtain Substantial Completion within the deadline as established in the contract, plus approved time extensions, Contractor shall pay to City the sum of Five Hundred ($500.00) for each calendar day after the deadline for Substantial Completion, plus any approved time extensions, until Substantial Completion is obtained. After Substantial Completion, should Contractor fail to complete the remaining Work within the deadline as established in the contract, plus approved time extensions thereof, Contractor shall pay to City the sum equal to fifty percent (50%) of applicable amount for each calendar day after the deadline for Final Completion, plus any approved extensions, until Final Completion is obtained. These amounts are not penalties but are liquidated damages to City for its inability to obtain full beneficial use/occupancy of the Project. Liquidated damages are hereby fixed and agreed upon between the Parties; recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by City as a consequence of such delay; And both Parties desiring to obviate any question of dispute concerning the amount of said damages and the cost and effect of the failure of Contractor to complete this Contract on time. The above-stated liquidated damages shall apply separately to each portion of the Project for which a deadline for completion is given.

The full amount of such damages shall be deducted from payments due the Contractor or obtained by other legitimate means of recovery if earned payments withheld are inadequate to cover such damages.

Applicable liquidated damages are the amounts established in the following schedule:

Original Contract Amount Daily Charge Per Calendar Day
$50,000 and under $956
Over $50,000 but less than $250,000.....$964
$250,000 but less than $500,000.....$1,241
$500,000 but less than $2,500,000.....$1,665
$2,500,000 but less than $5,000,000.....$2,712
$5,000,000 but less than $10,000,000.....$3,447
$10,000,000 but less than $15,000,000.....$4,866
$15,000,000 but less than $20,000,000.....$5,818

The City has the right to apply, as payment on such liquidated damages, any money the City owes the Contractor. The City does not waive its right to liquidated damages due under the Contract by allowing the

Contractor to continue and finish the work, or any part of it, after the expiration of the Contract Time including granted time extensions.

In the case of default of the Contract and the completion of the work by the City, the Contractor and his surety are liable for the liquidated damages under the Contract, but the City will not charge liquidated damages for any delay in the final completion of the City's performance of the work due to any unreasonable action or delay on the part of the City.

The City considers the Contract complete when the Contractor has completed all work and the City has accepted the work. The City will then release the Contractor from further obligation except as set forth in his bond.

SECTION 4 GENERAL TERMS AND CONDITIONS

4.01 AWARD OF CONTRACT

Award will be made to the lowest, most responsive and responsible Bidder whose bid submittal meets the specifications.

1.01 The City shall review the fees and rates of compensation for reasonableness prior to execution of contract or submittal of a recommendation of contract or agreement to the City Council. The City Attorney may review all contract documents. Other experts may be consulted to assist in this process.

1. The successful Bidder shall execute and return the agreement to the City, within ten (10) days after receipt along with any and all additional contractual documents, performance and payment bonds, insurance certificates/verifications and any other documents required as outlined in this solicitation document.

2. In no event shall an agreement be considered binding upon the City until it has been properly executed by all parties.

3. In conjunction with the agreement, a purchase order or other form of payment will be established by the City prior to the start of any project, service, or work by the Bidder.

2.01 Failure to Execute the Agreement(s).

Failure on the part of the successful Bidder to execute the Agreement(s) as required will be just cause for the rescindment of the award. In the event that the City fails to contract with the lowest most responsive and responsible bidder, the Bidder shall forfeit his bid guarantee to the City in the manner previously described herein. The award may then be made to the next lowest most responsive and responsible bidder, or the City may opt to re-advertise the work if found to be in its overall best interest.

4.02 DAMAGES

Areas adjacent to the construction site, which are damaged, shall be repaired at the Contractor's expense. Restoration of adjoining areas shall be equal to or better than original condition and to the satisfaction of the City. Protection of personal property, utilities, structures, access drives, conduits, pavement, curbs, sidewalks, trees, and shrubs shall be the responsibility of the Contractor, who shall provide adequate protection to maintain proper service.

4.03 NOTICE TO PROCEED

The Work shall commence upon the issuance of Notice To Proceed (NTP) and shall remain in effect until such time as the Work acquired in conjunction with this solicitation, have been completed and accepted by the City's authorized representative and upon completion of the expressed and/or implied warranty periods.

4.04 SUPERVISION

The City shall not exercise any supervision or control over the Bidder’s employees performing services under an agreement. Said employees shall be accountable not to the City, but solely to the Bidder, who, in turn, is responsible to the City.

4.05 FAILURE OF PERFORMANCE AND/OR DELIVERY

In cases where materials, goods or services are not properly delivered, performed and/or installed, the successful Bidder will either remedy the defect to the satisfaction of the City or be responsible for reimbursement of the difference to the City for the subsequent contractor selected to remedy the defect. Acceptance of materials, goods or services shall remain in the City’s sole discretion.

Unsatisfactory work shall be corrected by the Bidder within twenty-four (24) hours of notification by the City. If the successful Bidder fails to perform as required per these specifications, or fails to deliver the item(s) or perform the work specified in these specifications, it shall compensate the City for any damages caused by the Bidder’s failure to perform as stated herein.

4.06 PERFORMANCE EVALUATION

At the end of the Contract, the receiving department may evaluate the successful bidder's performance. This evaluation will become public record.

4.07 PROTECTION OF PROPERTY

At all times, the successful Bidder shall safe-guard City property from damage or loss and shall replace or repair any loss or damage unless such damage is caused by the City. The City may withhold payment, or make such deductions as it might deem necessary, to insure reimbursement for loss or damage to property through negligence of the successful Bidder or the Bidder's agents.

4.08 SERVICE REQUIREMENTS

The successful Bidder shall provide sufficient staff, resources, and facilities to ensure that the City's business is handled in a timely manner. If the Bidder is unable to perform the work in a timely manner as agreed upon, the City shall have the right to rescind the purchase order and award the project to another Bidder.

4.09 COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH

By submission of a bid in response of this solicitation, the Bidder certifies that all material, equipment, etcetera; contained in the bid submittal meets all OSHA requirements. Bidder further certifies that if they are the successful Bidder, and the material, equipment, etcetera; delivered is subsequently found to be deficient in any OSHA requirements in effect on the date of delivery, all costs necessary to bring the material, equipment, etcetera; into compliance with the aforementioned requirements shall be borne by the successful Bidder.

4.10 WARRANTY

In accordance with Article 15.00 of the Agreement(s) to be executed by the successful Bidder, the Contractor together with his surety unconditionally guarantee all Contractor furnished materials, equipment and workmanship incorporated in the Work for a period of not less than one (1) year after the date of final acceptance of the Work by the City. (This warranty shall be exclusive of all manufacturer's guarantee or warranties exceeding this period). Should any defect in materials or workmanship, except ordinary wear and tear, appear during the above stated warranty period, the successful Bidder shall repair or replace same at no cost to the City, immediately upon written notice from the City's authorized representative.

4.11 INSPECTION/TITLE/ACCEPTANCE OF GOODS/SERVICES

Inspection and acceptance of goods/services will be at the destination, unless otherwise stipulated. Title and risk of loss or damage to all items shall be the responsibility of the successful Bidder until accepted by the requesting Division/Department/Office of the City, unless loss or damage results from negligence by the City or the requesting Division/Department/Office.

Receipt of goods/service shall not constitute acceptance. Final acceptance and authorization of payment shall be given only after a thorough inspection indicates that the performance meets the specifications and/or all conditions. Should the delivered goods/services differ in any respect from the specifications, payment will be withheld pursuant to Section 218.70, Florida Statutes, until such time as the successful Bidder takes necessary corrective action. If the proposed corrective action is not acceptable to the City, the City may refuse final acceptance of the goods/services.

4.12 NON-EXCLUSIVE CONTRACT

Award of this project shall impose no obligation on the City to utilize the successful Bidder for all work of this type, which may develop during the contract period. This is not an exclusive contract. The City specifically reserves the right to concurrently contract with other companies for similar work if it deems such action to be in the City's best interest.

4.13 MATERIAL DEVIATIONS

The City of Cocoa has established certain requirements with respect to proposals to be submitted by prospective Proposers. The use of "shall" (except to indicate simple futurity) in the bid indicates a requirement or condition, which must be met. The City of Cocoa may, at its sole discretion, waive requirements or conditions if the conditions are determined to be non-material. A deviation from a requirement is material when the deficient response is not in substantial accord with the bid requirements, provides an advantage to one bidder, or has a potentially significant effect on the delivery, quantity or quality of items proposed amount paid to the Bidder, or for the cost to City of Cocoa. Material deviations cannot be waived.

4.14 OWNERSHIP OF DOCUMENTS

All documents resulting from this solicitation shall become the sole property of the City. All bid submittals received from Bidders in response to the solicitation will become the property of the City and will not be returned to Bidders. In the event of an award, all documentation produced as part of the Contract will become the exclusive property of the City.

4.15 PUBLIC RECORDS COMPLIANCE

The City is a public agency subject to Chapter 119, Florida Statutes. In addition, all responses to this solicitation shall be considered public record subject to distribution pursuant to the request for records by any interested party.

The successful Bidder/Contractor agrees to comply with Florida's Public Records Law. As such the following language applies effective July 1, 2016 and shall be included in the awarded agreement:

A. The parties specifically acknowledge that this agreement is subject to the laws of the State of Florida, including without limitation Chapter 119, Florida Statutes, which generally make public all records or other writings made or received by the parties. If the Contractor is either a "contractor" as defined in Section 119.0701(1)(a), Florida Statutes, or an "agency" as defined in Section 119.011(2), Florida Statutes, the CONTRACTOR shall:

1. Keep and maintain all public records required by the City to perform the services herein; and
2. Upon request from the City's custodian of public records, provide the City with a copy of the 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, F.S. or as otherwise provided by law; and
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 agreement Term and following completion of the agreement if the Contractor does not transfer the records to the City; and
4. Upon completion of the Agreement, 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 services herein. If the Contractor transfers all public records to the City upon completion of the Agreement, 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 Agreement, 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 compatible with the information technology systems of the City.

B. All requests to inspect or copy public records relating to the agreement shall be made directly to the City. Notwithstanding any other provision of this agreement to the contrary, failure to comply with the requirements of this paragraph shall result in the immediate termination of the agreement, without penalty to the City. A Contractor who fails to provide the public records to the City within a reasonable time may be subject to penalties pursuant to Section 119.10, F.S. Further, the CONTRACTOR shall fully indemnify and hold harmless the City, its officers, agents and employees from any liability and/or damages, including attorney's fees through any appeals, resulting from the Contractor's failure to comply with these requirements.

C. **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 AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS, ATTN: CARIE SHEALY, CMC, CITY CLERK, AT 321-433-8484, cshealy@cocoafl.gov, 65 STONE STREET, COCOA, FLORIDA 32922.**

4.16 FUND AVAILABILITY

Any contract resulting from this solicitation is deemed effective only to the extent that funds are available. The City of Cocoa abides by the provisions set forth in Florida Statutes relative to the appropriation of funds.

A. Multi-Year Contracts and Appropriation of Funds (if applicable), Contracts for Goods, Services, or Construction may be entered into for more than one (1) fiscal year if it is deemed to be in the best interest of the City, if the term of the Contract and conditions of renewal or extension are included in the Solicitation, and funds are available for the first term of the Contract. Obligations for succeeding fiscal years may be subject to the availability and appropriation of funds by the City Council.

B. For Construction Projects, total funding may be identified and appropriated in the fiscal year commencement of the Construction Project takes place, or to the maximum extent as possible and not inconsistent with law. Obligations for succeeding fiscal years shall be rolled over and/or appropriated as applicable.

4.17 PROMPT PAYMENT ACT

Payments will be made pursuant to Section 218.70, Florida Statutes, Florida's Prompt Payment Act.

4.18 PURCHASING CARD PROGRAM

The City of Cocoa offers an e-Payables program to contractors as an optional payment method. This is not a requirement. If the successful Bidder is interested or desires additional information, please indicate in your bid submittal.

4.19 INVOICES/APPLICATION FOR PAYMENT

A. Final approved Applications for Payment shall be delivered to the City of Cocoa, Attention: Accounts Payable, City of Cocoa, 65 Stone Street, Cocoa, Florida, 32922. Applications for Payment should include all Work completed through the end of the month.

B. Dispute Resolution: In the event a dispute occurs between a contractor, vendor or other invoicing party ("invoicing party") and the City concerning payment of an invoice, the City Department, Office or Division which has the dispute along with a representative of the City's Purchasing & Contracts Division and the invoicing party shall meet to consider the disputed issues.

The invoicing party shall provide to the City such material and information as the City may reasonably require. Any such procedure shall be initiated by either party notifying the other in writing of a dispute or stating with specificity its nature. This procedure shall commence not later than forty-five (45) days and be resolved not later than sixty (60) days, after the date on which the proper invoice was received by the City. Any decision by the Procurement Administrator shall constitute the final decision of the City regarding these matters and shall be communicated in writing to the invoicing party within three (3) business days after such decision.

If no decision is rendered within the time period as set out above, then a decision against the invoicing party shall be deemed to have been issued.

4.20 W-9 FORM

All Proposers shall furnish a completed W-9 with their bid or proposal submittal. A tax identification number is required to do business with the City.

4.21 MOST FAVORED CUSTOMER

The City seeks and demands to be the most favored customer of each Bidder who does business with the City. The most favored customer is a customer or category of customers that receives the best discounts from the Bidder's commercial price list when procuring quantities comparable to the City's under similar terms and conditions. The successful Bidder agrees to provide the City discounts from the Bidder's commercial price list that are equal to or greater than the Bidder's most favored customer is receiving.

4.22 PRICE REDUCTION CLAUSE

The City will invoke the price reduction clause if the successful Bidder violates the contractually agreed upon pricing/discount relationship by offering a (better) discount to a most favored customer. The City shall request a price reduction from the date that the violation took place. The successful Bidder will owe the City a discount proportionately equal to that given the most favored customer.

4.23 PURCHASING AGREEMENTS WITH OTHER GOVERNMENTAL AGENCIES

All bidders submitting a response to this solicitation agree that such response also constitutes a bid in accordance with the terms of the solicitation to all political subdivisions of Brevard County and the State of Florida, under the same conditions, for the same prices as this bid, unless otherwise stipulated by the bidder. Each governmental agency shall be responsible for its own purchases and shall be liable for materials and /or services received by it.

4.24 ESTIMATED QUANTITIES

This ITB may contain estimated quantities for purposes of providing unit prices. These numbers, which may be approximate, are subject to variation in the field. The City cannot guarantee that estimated quantities will be the actual amount required and/or purchased. Actual quantities may be more or may be less and the Bidder agrees to do the work at the unit price whether the quantities are increased or decreased.

4.25 FOREIGN CORPORATION

In accordance with Section 607.1501, Florida Statutes, and provided an exemption is not available, a foreign corporation may not transact business in Florida until it obtains a certificate of authority from the Florida Department of State.

Foreign corporations may submit bids or proposals prior to obtaining a certificate of authority from the Florida Department of State. A foreign corporation must be in compliance with F.S. 607.1501, prior to entering into a Contract with the City of Cocoa.

4.26 PUBLIC EMERGENCIES

It is hereby made a part of this proposal that before, during, and after a public emergency, disaster, hurricane, tornado, flood, or other acts of God, the City of Cocoa shall require a "First Priority" for goods and services. It is vital and imperative that the health, safety, and welfare of the citizens of Cocoa are protected from any emergency that threatens public health and safety as determined by the City. The Bidder agrees to rent/sell/lease all goods and services to the City or governmental entities on a "first priority" basis. The City expects to pay contractual prices for all products and/or services under the awarded Agreement in the event of a disaster, emergency, hurricane, tornado, flood, or other acts of God. Should the Bidder provide the City with products and/or services not under the awarded Agreement, the City expects to pay a fair and reasonable price for all products and/or services rendered or contracted in the event of a disaster, emergency, hurricane, tornado, flood, or other acts of God.

4.27 SPECIFICATIONS/DEVIATIONS

Specifications listed herein describe the expected minimum standards. These specifications are intended to be descriptive in nature and are not intended to eliminate any Bidder from submitting a bid response. If

a Bidder considers the specification contained herein to be proprietary or restrictive in nature, thus potentially resulting in reduced competition, they are urged to contact the Purchasing & Contracts Division prior to the bid due date and time.

A. The determination as to whether any alternate good or service is or is not equal shall be made solely by the City and such determination shall be final and binding upon all bidders. The City reserves the right to request and review additional information to make such a determination.

B. The Bidder shall be responsible for carefully reading and understanding the requirements and specifications. Unless the bid is in response to a brand name or equal" requirement, deviations from the specifications will only be considered if requested in writing prior to the date and time specified for receipt of bids. Deviations, if accepted, will be specifically addressed in writing via an issued addendum to this ITB solicitation. Any goods or services that are not in compliance with the specifications will not be accepted.

4.28 PERMITS, LICENSES AND FEES

At its sole expense, any required federal, state, and local permits, licenses, and/or occupational fees required, except for permits provided by the City, shall be the responsibility of the Bidder. The City will not entertain separate payment for these items.

4.29 SUB-CONTRACTORS

Bidders must list any sub-contractors that shall be used to accomplish the scope of services. Please complete and submit **Schedule of Proposed Subcontractor Participation**. If no subcontractors are going to be used, check the box for "No Subcontracting (of any kind) will be utilized on this project" at the top of the form.

4.30 TAXES

The City of Cocoa is a municipality corporation existing under the laws of the State of Florida. As such, the City does not pay State of Florida Sales Tax. The City's State Tax exemption number is 85-80126215485C-8 and the Federal Employee Identification Number is 59-6000292. The City's sales tax exemption does not apply to goods and services purchased separately by the successful Bidder in connection with its fulfillment of its contractual obligations with the City. The successful Bidder shall be responsible for paying any taxes, fees or similar payments which are required to be paid in connection with the awarded Agreement as a result of this solicitation.

4.31 COMPLIANCE WITH ALL LAWS AND VENUE

At its sole expense, any contractual arrangement between the City and the proposer shall comply with all laws, ordinances, judicial decisions, orders, and regulations of federal, state, county, and municipal governments, as well as their respective departments, commissions, boards, and officers, which are in

effect at the time of award and execution of an Agreement or are adopted at any time following the execution of the awarded Agreement. All legal actions hereunder shall be conducted only in the circuit court in Brevard County or federal court in the Middle District of Florida, Orlando Division; except that any final judgment may be enforced in other jurisdictions in any manner provided by law.

4.32 NEW PRODUCT

Any and all products and materials provided under this bid shall be new and unused.

4.33 EQUAL OPPORTUNITY

The City recognizes fair and open competition as a basic tenet of public procurement and encourages participation by minority and women owned business enterprises. All Bidders are asked to make an affirmative statement as to its support of all applicable equal opportunity and affirmative action requirements. A copy of the City's Equal Employment Opportunity policy is available upon request.

4.34 PUBLIC ENTITY CRIMES

As required by Section 287.133, Florida Statutes, the Bidder warrants that it is not on the convicted contractor list for a public entity crime committed within the past thirty-six (36) months. The Bidder further warrants that it will neither utilize the services of, nor contract with, any supplier, sub-contractor, or consultant in connection with this Agreement for a period of thirty-six (36) months from the date of being placed on the convicted contractor list. By way of a submittal response completion and signature on this solicitation, the Bidder certifies that it is qualified to do business with the City of Cocoa in accordance with all Florida Statutes.

4.35 SOVEREIGN IMMUNITY

Notwithstanding any other provision set forth in this solicitation and/or the resulting awarded Agreement, nothing contained in this solicitation and/or the resulting awarded Agreement shall be construed as a waiver of the City's right of sovereign immunity under Section 768.28, F.S., or other limitations imposed on the City's potential liability under state or federal law. The City shall not be liable under this solicitation and/or the resulting awarded Agreement for punitive damages or interest for the period before judgment. Further, the City is not liable for any claim or judgment or portion thereof, to any one person for more than two hundred thousand dollars ($200,000.00), or any claim or judgment, or portion thereof, which, when totaled with all other claims or judgments paid by the City arising out of the same incident or occurrence, exceeds the sum of three hundred thousand dollars ($300,000.00). This paragraph will survive termination of this solicitation and/or the resulting awarded Agreement.

4.36 RIGHT TO CANCEL OR REJECT

A. A solicitation may be canceled, or any or all submittals in response to a solicitation issued by the City may be rejected, by the Procurement Administrator, in whole or in part, without recourse, when

it is in the best interest of the City in accordance with the Section 5.14 of City of Cocoa Purchasing Policy. As the best interests of the City of Cocoa may require, the right is reserved to make award(s) by individual items, group of items, all or none, or a combination thereof, with one or more suppliers. The Bidder agrees that the City has the right to reject, for any reason and without penalty, any and/or all proposal packages or any part of a proposal package, prior to and after the rankings are made by the City, and that the City has the right, for any reason and without penalty, to terminate any contract negotiations commenced with any Bidder. The City also reserves the right to re-advertise and solicit new bids/proposals or to abandon the project in its entirety without reason and without penalty.

B. The City reserves the right to accept or reject any or all bids/proposals, or to waive any formalities, technicalities, irregularities, or immaterial variation.

C. The City also reserves the right to reject the bid submittal from a Bidder who has previously failed to perform properly, or complete on time contracts of a similar nature, or who investigation shows is not able to perform the contract.

4.37 ADDITIONAL INFORMATION

The City reserves the right to request any additional information needed for clarification from any Bidder for evaluation purposes.

4.38 UNIT PRICE ACCURACY

Please check the stated unit prices before submitting the bid as no change in prices shall be allowed after opening. All prices and notations must be in ink or typewritten. In cases of extended price irregularities, unit pricing shall prevail. The Bidder shall specify the price per unit of measure and the extended total, or the lump sum bid price if such is required by the bid documents, for each scheduled item of Work, as well as the total bid amount for the entire Work to be completed under the Agreement. Please note that the City reserves the right to clarify and correct extended amount errors.

4.39 MATHEMATICAL ERRORS

A. Bid pricing forms without imbedded mathematical formulas: In the event of multiplication or extension error(s), the unit price shall prevail. In the event of addition error(s), the extension totals will prevail.
B. Bid pricing forms with imbedded mathematical formulas: Interactive bid pricing forms that contain mathematical formulas may be provided to automate lengthy and complex bid forms. In the event bid pricing forms with imbedded formulas are used and a multiplication/extension error(s) is discovered in the formula, the unit price entered by the Bidder shall prevail.
C. Bidder shall assume the responsibility and accuracy of the information input in the bid pricing form and therefore shall verify that the calculations are correct before submitting their bid.
D. Regardless of the type of bid pricing form used, all bids shall be reviewed mathematically by the City using these standards.

4.40 UNBALANCED BIDDING PROHIBITED

The City recognizes that large and/or complex projects will often result in a variety of methods, sources, and prices. However, where in the opinion of the City such variation does not appear to be justified given bid requirements and industry and market conditions, the bid will be presumed to be unbalanced. Examples of unbalanced bids include:

A. Bids showing omissions, alterations of form, additions not specified, or required conditional or unauthorized alternate bids.
B. Bids quoting prices that substantially deviate, either higher or lower, from those included in the bids of competitive Bidders for the same line item unit costs.
C. Bids where the unit costs offered are in excess of, or below reasonable cost analysis values.

In the event the City determines that a bid is presumed unbalanced, it will request the opportunity to and reserves the right to, review all source quotes, bids, price lists, letters of intent, and other supporting documentation which the Bidder obtained and upon which the Bidder relied upon to develop its bid. The City reserves the right to deem any presumptive unbalanced bid where the Bidder is unable to demonstrate the validity and/or necessity of the unbalanced unit costs as non-responsive.

4.41 FRONT LOADING OF BID PRICING PROHIBITED

Prices offered for performance and/or acquisition activities, which occur early in the Project Schedule, such as mobilization; clearing and grubbing; or maintenance of traffic; that are substantially higher than pricing of competitive bidders within the same portion of the Project Schedule, will be presumed to be front-loaded. Front loaded bids could reasonably appear to be an attempt to obtain unjustified early payments creating a risk of insufficient incentive for the bidder to complete the Work or otherwise creating an appearance of an undercapitalized bidder.

In the event City determines that a bid is presumed to be front loaded, it will request the opportunity to, and reserves the right to, review all source quotes, bids, price lists, letters of intent, and other documents which the bidder obtained and upon which the bidder relied upon to develop the pricing or acquisition timing for these bid items. The City reserves the right to reject as nonresponsive any presumptive front-loaded bids where the bidder is unable to demonstrate the validity and/or necessity of the front-loaded costs.

4.42 REASONABLE PRICES

A reasonable unit price must be submitted for each work element. In the event any pay item unit price is determined to be unreasonably low or unreasonably high, the bid may be declared non-responsive and may not be considered.

4.43 DELIVERY

Unless otherwise specified, prices shall be firm, net delivered and installed at construction or project site. Delivery may be a factor in the award. Failure to perform within the delivery deadline(s) set forth in the specifications, or any other contract document, shall constitute default.

4.44 SPLIT AWARD

The City reserves the right to make an award to one Bidder, to split the award between two or more Bidders, or to withhold award of individual items, as may be in the best interest of the City. The City may accept any item or group of items on any bid unless the Bidder qualifies the bid by specific limitations.

4.45 BID PRICE SCHEDULE

Each Bidder shall furnish the information required on **the Bid Price Schedule** and each accompanying sheet thereof on which the Bidder makes an entry. Offers submitted on any other format may be disqualified.

4.46 BID TABULATION

The bid tabulation will be posted on the City of Cocoa website via VendorLink, LLC at: http://www.myvendorlink.com. Proposers may email the Purchasing & Contracts Division, purchasing@cocoafl.gov for results.

4.47 BIDDER'S SPECIFICATIONS AND NOT BIDDING

A. Each Bidder shall make accurate and clear statements in their bid response.
B. Where more than one (1) item is listed, any items not bid upon shall be indicated as "NO BID".

4.48 PRE-AWARD INSPECTION

Prior to the award, the City reserves the right to make a pre-award inspection of the Bidder's facilities to determine the capabilities of the Bidder to service the City.

4.49 EXISTING PERMITS AND IDENTIFICATION NUMBERS

Any and all permits, state licenses, including, but not limited to, Department of Environmental Protection (EPA), and/or Environmental Protection Agency (EPA) identification numbers, registrations or permits are to be available for review by the City upon request.

4.50 DRUG-FREE WORKPLACE PREFERENCE

Certification of an implemented drug-free workplace program must be included with the ITB response when submitted. If your firm has implemented a drug-free workplace program, please complete **Attachment Drug-Free Workplace Certification** and include with your ITB response.

4.51 CONFLICT OF INTEREST

All Bidders must disclose, with their bid submittal, the name of any officer, director, or agent who is also an officer or employee of the City of Cocoa. Furthermore, all Bidders must disclose the name of any City of Cocoa officer or employee who owns, directly or indirectly, an interest of ten percent (10%) or more of the Bidder's firm or any of its branches, subsidiaries, or partnerships. Failure to disclose in this manner will result in the disqualification of the Bidder or the cancellation of work. It is the sole responsibility of the Bidder to ensure compliance with the Section 2.1, Conflict of Interest of as per the City of Cocoa Purchasing Policy. Complete and submit, the **Conflict-of-Interest Statement** and non-collusion statement with your bid response. The City may seek damages for the recoupment of losses in having to re-solicit or re-assign this project.

4.52 NON-COLLUSION/LOBBYING CERTIFICATION

All Bidders submitting a Bid, certify that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the bid submittal. In addition, no City appropriated funds have been paid or will be paid to any person for influencing or attempting to influence a member of the City Council, City Manager or any City employee in connection with the awarded agreement as a result of this solicitation process.

4.53 CONSTRICTING CONDITIONS

No additional terms and conditions included within the bid submittal shall be evaluated or considered, and any and all such additional terms and conditions shall have no force and effect and are inapplicable to this solicitation. If submitted either purposely, through intent or design, or inadvertently, appearing separately in transmitting letters, specifications, literature, price lists, or warranties, it is understood and agreed the

general and special conditions in this solicitation are the only conditions applicable to this bid submittal and the Bidder's authorized signature affixed to the bid submittal signature section attests to this. When completing your bid submittal, do not attach any forms which may contain terms and conditions that conflict with those listed in the City's solicitation document. Inclusion of additional terms and conditions such as those which may be on your company's standard forms shall result in your bid being declared non-responsive as these changes will be considered a counteroffer to the City's solicitation.

4.54 DEBARRED BIDDERS

The City reserves the right to suspend award, withhold award, rescind award, or forego award to any Bidder or contractor who is found to have been debarred from doing business with the State of Florida or any other public entity. It shall be at the City's sole determination, as to the desirability of contracting with a Bidder or contractor who has been debarred from doing business with any public entity.

4.55 NOTICES OF INTENT

The Purchasing & Contracts Division shall publicly post a Notice of Intent to Award for a minimum period of three (3) business days on the City of Cocoa's website via VendorLink, LLC at: http://www.myvendorlink.com.

4.56 PROTESTS AND APPEALS

A. Any prospective Bidder or Respondent may file a Notice of Solicitation Protest concerning a Solicitation in writing to the Procurement Administrator. The protest must be received in the Purchasing & Contracts Division Office no later than three (3) business days after the due date for the Solicitation in accordance with Section VIII of the City of Cocoa Purchasing Policy.

B. Any Bidder or Respondent, who is not the intended awardee and who claims to be the rightful awardee, may file a Notice of Award Protest, in writing, with the Purchasing & Contracts Division Office, by 5:00 pm on the third (3rd) business day after the Notice of Intent to Award is posted. An Award Protest is not valid if filed by a Bidder who cannot show they would be awarded the Contract if their protest is upheld in accordance with Section VIII of the Cocoa Purchasing Policy. The decision of the City Council shall be final and conclusive.

4.57 SCRUTINIZED COMPANIES

Pursuant to Section 287.135, Florida Statutes (2017), a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with the City for goods or services of one million dollars or more if at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract, the company is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes (2017); or is engaged in business operations in Syria. Pursuant to Section 215.4725, Florida Statutes, if the company is on the Scrutinized Companies that Boycott Israel List or is

engaged in a boycott of Israel the company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with the City for any amount of goods or services. Subject to limited exceptions provided in state law, the City will not contract for the provision of goods or services with any scrutinized company referred to above. The Contractor must submit the required certification form attesting that it is not a scrutinized company and is not engaging in prohibited business operations. Submitting a false certification shall be deemed a material breach of contract and shall terminate the contract. The City shall provide notice, in writing, to the Contractor of the City's determination concerning the false certification. The Contractor shall have five (5) days from receipt of notice to refute the false certification allegation. If such false certification is discovered during the active contract term, the Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the City's determination of false certification was made in error then the City shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes.

4.58 FORCE MAJEURE

Neither party to this agreement shall be liable to the other for any cost or damages if the failure to perform the agreement arises out of causes beyond the control and without the fault or negligence of the parties. Such causes may include, but are not limited to, the following: acts of God, fires, quarantine restriction, strikes, and freight embargoes. In all cases, the failure to perform must be totally beyond the control and without any fault or negligence of the parties.

4.59 INSURANCE REQUIREMENT

A. Include a copy of your current liability insurance, workman's compensation insurance certificate, and a copy of your firm's Local Business Tax Receipt with your bid submittal.

B. The successful Bidder shall provide original Certificates of Insurance, evidencing coverage as required, in **the Insurance Requirements attached herein** to the Purchasing & Contracts Division within five (5) regular business days of the notification of the intent to award the Agreement. Certificates of Insurance shall provide a minimum of a thirty (30) day notice of cancellation to the City and shall name the City of Cocoa as a Certificate Holder/Additional Insured.

C. All insurance certificates shall remain valid and in full force for the term of the Agreement. Failure to maintain binding insurance policies for awarded services will be grounds for termination of awarded Agreement.

4.60 EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY)

In accordance with State of Florida, Office of the Governor, Executive Order 11-116, in the event performance of this Agreement is or will be funded using state or federal funds, the Bidder must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the Bidder must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include these requirements in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: http://www.dhs.gov/E-Verify.

4.61 AUDITS AND RECORDS

Before or after an agreement is prepared and executed, the successful Bidder may be required to disclose their financial condition in a specified manner. In addition, subsequent to an agreement being executed, the successful Bidder must maintain financial records and reports relating to funds paid by any parties for work on the matters which are the subject of this ITB document and submit reports to the City in the form and frequency requested. The successful Bidder must maintain books, records, documents, and other evidence according to generally accepted accounting principles, procedures, and practices, which sufficiently and properly reflect all costs of any nature expended in the performance of the resulting contract and retain said copies for a period of no less than five (5) years after termination of the project. The aforesaid records, books, documents, and other evidence shall be always subject to inspection, review, or audit by the City or its designee. The successful Bidder shall include these audit and record keeping requirements in contracts and subcontracts thereto entered into by the successful Bidder with any party for work required in the performance of this project.

4.62 INDEPENDENT CONTRACTOR AND LIABILITY

The successful Bidder and each sub-consultant are, and while performing the Services will continue to be, independent contractors. The successful Bidder shall not be an agent of the City, except as may be otherwise expressly provided herein and/or the awarded Agreement, and only to the extent so provided. The successful Bidder's employees and sub-consultant employees are not, and while performing any of the Services, shall not be deemed to be, employees of the City.

Bidders are advised that the City will not accept limitations on liability. The successful Bidder will be fully liable for all damages and events caused by the successful Bidder without any limitations as to dollar amount. The City will pursue liable Bidders to the extent allowed by law. Any bid received that limits liability to the amount of the bid will be considered non-responsive and the Bidder non-responsible, and, as such, the bid will not be accepted by the City.

4.63 INDEMNIFICATION

A. Indemnity: The successful Bidder shall defend, indemnify and hold harmless the City and all of the City's officers, agents, and employees from and against all claims, liability, loss and expense, including reasonable costs, collection expenses, attorneys' fees where recoverable by law, and court costs which may arise because of the negligence (whether active or passive), misconduct, or other fault, in whole or in part (whether joint, concurrent, or contributing), of the successful Bidder, its officers, agents or employees or subcontractors in performance or non-performance of its obligations under the awarded Agreement. The successful Bidder recognizes the broad nature of this indemnification and hold harmless clause, and voluntarily makes this covenant and expressly acknowledges the receipt of such good and valuable consideration provided by the City in support of these indemnification and hold harmless contractual obligations in accordance with the laws of the State of Florida. This clause shall survive the termination of the awarded Agreement. Compliance with any insurance requirements required elsewhere within the awarded Agreement shall not relieve the successful Bidder of its liability and obligation to defend, hold harmless and indemnify the City as set forth in this article of the awarded Agreement. The successful Bidder shall require each of its agents/subcontractors to agree in writing to the provisions of this paragraph.

B. Copyright Infringement: The successful Bidder shall guarantee that all services performed under the awarded Agreement will be free from claims of patent, copyright or trademark infringement. The successful Bidder shall defend, indemnify and hold the City and its successors and assigns harmless from and against all third-party claims, suits, and proceedings and any and all damages, liabilities, costs and expenses (including reasonable attorneys' fees and court costs) incurred as a result of (i) infringement by the successful Bidder of any third-party patent, copyright or trademark or (ii) misappropriation by the successful Bidder of any third-party trade secret in connection with any of the foregoing.

4.64 CHANGES, MODIFICATIONS AND WAIVER

A. Changes: The City reserves the right to order, in writing, changes in the work within the scope of services of a contractual agreement, such as a change in quantity or delivery schedule.

B. Modifications: In additions to modifications made under the changes clause, any agreement resulting from this solicitation may be modified (1) within the scope of services of the agreement upon the written and mutual consent of both parties, and (2) with approval by the appropriate legal body in the City.

C. Waiver: Failure of the parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions contained in a contractual agreement, or to exercise any right or option therein, shall not be construed as a waiver of a relinquishment for the future of such covenant, term, provision, condition, or right of election, but same shall remain in full force and effect.

4.65 ASSIGNMENT

The successful Bidder will not be permitted to assign its contract with the City, or to sub-contract any of the work requirements to be performed, without prior written approval from the City.

4.66 TERMINATION

A. Termination for Convenience: The City may at any time give ten (10) days written notice to the successful Bidder of the termination of the agreement, in whole or in part, for the City's convenience and without cause.

B. Default by the successful Bidder and the City's Remedies: In the event of a default by the successful Bidder, the City shall have the right to exercise any remedy the City may have by operation of law, without limitation, and without any further demand or notice.

C. Bankruptcy or Insolvency: If the successful Bidder files a Petition in Bankruptcy, or if the same is adjudged bankrupt or insolvent by any Court, or if a receiver of the property of the successful Bidder is appointed in any proceeding brought by or against the successful Bidder, or if the successful Bidder makes an assignment for the benefit of creditors, or proceedings are commenced on or against the successful Bidder's operations, the City reserves the right to terminate this Agreement immediately.

D. Payment when Agreement is Terminated:

1. In the event of termination by the City for convenience, the City shall compensate the successful Bidder for all goods furnished prior to the effective date of termination.

2. In the event of termination due to the fault of the successful Bidder or at the written request of the successful Bidder, the City shall compensate the successful Bidder for all goods furnished, prior to the effective date of termination, which have resulted in a usable product, or otherwise tangible benefit to the City. All such payments shall be subject to an off set for any damages incurred by the City resulting from any delay occasioned by early termination. This provision shall in no way be construed as the sole remedy available to the City in the event of breach by the successful Bidder.

4.67 ATTACHMENTS AND EXHIBITS

All attachments and exhibits hereto are made a binding part of this solicitation by this reference.

4.68 OWNERSHIP AND RIGHTS IN DATA

Any work, product or deliverable report provided to the City as a result of work performed while under contract shall be considered the property of the City and may be used in any fashion the City deems

appropriate. The City shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials, and documents discovered or produced by the successful Bidder pursuant to the terms of the awarded contract, including but not limited to reports, memoranda or letters concerning the research and reporting tasks of the awarded contract.

4.69 ADMINISTRATIVE PROVISIONS

In the event the City issues a purchase order, memorandum, letter, or any other instrument addressing the services, work, and materials to be provided and performed pursuant to a contractual agreement, it is specifically agreed and understood that any such purchase order, memorandum, letter or any other instrument is for the City's internal purposes only, and any and all terms, provisions, and conditions contained therein, whether printed or written, shall in no way modify the covenants, terms, and provisions of the contractual agreement and shall have no force or effect thereon. This statement is not applicable to duly authorized and agreed upon amendments to the agreement and/or duly authorized and agreed upon change orders if applicable.

4.70 TIE BIDS

When all considerations of a bid or proposal are equal and the City must break the tie, the Procurement official may consider any or a combination of the following factors in order to break the tie:

1. Priority will be given to the respondent certifying that their firm has a *Drug-Free Workplace Program* published at the time of the issuance of the solicitation. Respondents will be required to provide a copy of their Drug-Free Workplace Program published at the time of the issuance of the submittal;
2. If still tied, consideration shall be given to the Respondent with lowest price submittal amongst the tied proposals;
3. Best and Final Offer - Within 24 hours of a request by the City, tie bidders shall submit a *Best and Final offer*;

If the above options are not practical or do not result in breaking the tie, the Procurement official may utilize a flip of the coin to resolve the tie. If time permits, the bidders involved shall be given an opportunity to attend the coin flip. At least one (1) person shall witness the coin flip, and the contract file shall contain the name(s) and address(es) of the witness(es) and the person supervising the coin flip.

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	**Solicitation Number: ITB B-23-14-COC**
	INVITATION TO BID (ITB)	**Due Date: 02/15/2023**
TITLE:	**City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement**	

RESPONSE COVER PAGE

COMPANY NAME	
ADDRESS	
PRIMARY CONTACT	
TELEPHONE #	
EMAIL ADDRESS	

SUBMITTAL CHECKLIST

[X]	SUBMITTAL REQUIREMENT / DOCUMENT
	Original Submittal Package bound with binder clip
	Attended Pre-Bid (if Mandatory)
	Attachment "B" Insurance
	Attachment "C" Addendum Acknowledgement
	Attachment "D" Bid Security Bond (if required)
	Attachment "E" Bid Price Schedule
	Attachment "F" Trench Safety (if required)
	Attachment "G" Certificate of Non-Segregated Facilities
	Attachment "H" Drug-Free Workplace
	Attachment "I" Conflict of Interest and Non-Collusion
	Attachment "J" Organizational Info
	Attachment "K" Subcontractor Participation
	Attachment "L" References
	Attachment "M" Truth-in-Negotiations
	Attachment "N" Solicitation Label affixed to envelope
	Attachment "O" Scrutinized Companies
	Attachment "P" E-Verify Affidavit (including screenshot from website showing active account)
	Attachment "Q" Federally Required Contract Clauses for FEMA Grantees and Subgrantees-N/A
	Proof of Florida Registration (if required)
	Professional License(s) (if required)
	W9
	Proof of Insurance
	USB drive with electronic copy of submittal

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Attachment "A"

Statement of "No Bid Submittal"

If you do not intend to submit on this requirement, please complete and return this form prior to the date shown for receipt of proposals to: City of Cocoa, Purchasing & Contracts Division, 65 Stone Street, Cocoa, Florida 32922.

I/WE HAVE DECLINED TO SUBMIT A BID for the following reason(s): [Please place a check mark (✓) next to the reason(s) as applicable]

(✓)	Reason
	Bid requirements too "restrictive".
	Insufficient time to respond to the Invitation to Bid.
	We do not offer this service.
	Our schedule would not permit us to perform.
	Unable to meet requirements.
	Unable to meet insurance or bond requirements.
	Scope of Services unclear (please explain below).
	Other (please specify below).

REMARKS:

_____ _____

_____

_____

Company Name:

_____

Mailing Address:

_____

Telephone Number: _____ Fax Number: _____ E-mail Address: _____

_____ _____ FEIN: _____

Authorized Signatory Printed Name

_____ _____

Title Date

Attachment "B"
Insurance Requirements

A. Insurance. The successful Bidder/Contractor shall not commence any work in connection with an agreement until it has obtained all of the required types of insurance and has provided proof of same to the City, in the form of a certificate prior to the start of any work, nor shall the successful Bidder/Contractor allow any subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been so obtained and approved. All insurance policies shall be with insurers qualified and doing business in Florida.

B. Limits. The successful Bidder/Contractor and/or subcontractor shall maintain the types of insurance, with at a minimum the respective limits as outlined herein:

Automobile combined single limit or	$1,000,000.00
a) Automobile Bodily Injury and	$ 500,000.00
b) Automobile Property Damage	$ 500,000.00
Umbrella / Excess Liability	
a) Liability each occurrence	$1,000,000.00
b) Aggregate combined limit (policy year)	$2,000,000.00
Commercial General Liability	
a) Each Occurrence	$1,000,000.00
b) Medical Expense (Any one Person)	$ 5,000.00
c) Personal & Adv. Injury	$1,000,000.00
d) General Aggregate	$2,000,000.00
e) Products – Comp/OP AGG	$2,000,000.00
Worker's Compensation	$1,000,000.00

Worker's Compensation: Employers' liability insurance, which covers the statutory obligation for all persons, engaged in the performance of the work required hereunder with limits not less than $1,000,000.00 per occurrence. Evidence of qualified self-insurance status will suffice for this subsection. The Bidder understands and acknowledges that it shall be solely responsible for all medical and liability costs associated with an injury to itself and/or to its employees, sub-contractors, volunteers, and the like, including the costs to defend the City in the event of litigation against same.

C. City as Additional Insured. The successful Bidder/Contractor and/or subcontractor shall name the "City of Cocoa" as an Additional Insured, to the extent of the services to be provided hereunder, on all required insurance policies, and provide the City with proof of same.

D. Certificates of Insurance. The successful Bidder/Contractor and/or subcontractor shall provide the City's Purchasing & Contracts Division with a Certificate of Insurance evidencing such coverage for the duration of this Agreement. Said Certificate of Insurance shall be dated and show:

1. The name of the insured Contractor,
2. The specified job by name and job number,
3. The name of the insurer,
4. The number of the policy,
5. The effective date,
6. The termination date,
7. A statement that the insurer will mail notice to the City at least thirty (30) days prior to any material changes in the provisions or cancellation of the policy, and;
8. The Certificate Holders Box must read as follows:
   City of Cocoa
   c/o Administrative Services Director
   65 Stone Street
   Cocoa, Florida 32922

Any other wording in the Certificate Holders Box shall not be acceptable. Non-conforming certificates will be returned for correction.

***NOTE – FOR CONTRACTING PURPOSES, THE CERTIFICATE OF INSURANCE MUST BE DELIVERED TO CITY OF COCOA, PURCHASING & CONTRACTS DIVISION, 65 STONE STREET, COCOA, FLORIDA 32922**

E. Waiver. Receipt of certificates or other documentation of insurance or policies or copies of policies by the City, or by any of its representatives, which indicates less coverage than is required, does not constitute a waiver of the successful Bidder's/Contractor's obligation to fulfill the insurance requirements specified herein.

F. Subcontractors. The successful Bidder/Contractor shall ensure that any sub-contractor(s), hired to perform any of the duties contained in the Scope of Services of an Agreement, maintain the same insurance requirements set forth herein. In addition, the successful Bidder/Contractor shall maintain proof of same on file and make readily available upon request by the City.

G. Loss Deductible Clause. The City shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the successful Bidder/Contractor and/or subcontractor providing such insurance.

H. Additional Requirements. All insurance carriers shall have AM Best Rating of at least A, and a size VII or larger. The General Liability and Workers Compensation policies shall have a waiver of subrogation in favor of the City of Cocoa. The liability policies shall be Primary/Non-Contributory.

_____
AFFIANT SIGNATURE

_____
Typed Name of AFFIANT

_____
Title

The foregoing instrument was executed before me this ____ day of _____, 20__, by _____ as_____ of _____, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced _____ as identification.

NOTARY PUBLIC
STATE OF _____
MY COMMISSION EXPIRES: _____

The City reserves the unilateral right to modify the insurance requirements set forth at any time during the process of solicitation or subsequent thereto.

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Attachment "C"
Addendum Receipt Acknowledgement Certification

The undersigned acknowledges receipt of the following addenda to the solicitation document(s) (Give number and date of each):

Addendum No. _____ Dated: _____

Addendum No. _____ Dated:_____

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided in herein, is truthful and correct at the time of submission.

Bidder/Contractor Name:
_____

Mailing Address:
_____

Telephone Number: _____ Fax Number: _____ E-mail Address: _____

_____ _____ FEIN: _____
Authorized Signatory Printed Name

_____ _____
Title Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

Attachment "D"

Bid Security Bond

BOND NO:_____

(NOT TO BE FILLED OUT IF A CASHIER'S CHECK IS SUBMITTED)

KNOW ALL MEN BY THESE PRESENTS: That the undersigned_____

_____

as Principal, and,_____

as **Surety**, are held and firmly bound unto the **City of Cocoa** in the sum of 5% of the bid amount shown on the **Bid Price Schedule and Acceptance of Bid Terms and Conditions** for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

THE CONDITION OF THIS OBLIGATION is such that if Principal:

1. Does not withdraw the attached Bid Amount shown on the **Bid Price Schedule and Acceptance of Bid Terms and Conditions** for the City of Cocoa _____ titled _____ for a period of (180) calendar days after the date on which the bids are opened; and
2. Enters into a written Contract and furnishes the required Insurance, Certificates of Insurance and Payment and Performance Bonds with surety or sureties acceptable to the **City of Cocoa** within seven days after the date of award of the Contract, then this obligation will be void; Otherwise, the same will be in full force and the full amount of this Bid Bond will be paid to the **City of Cocoa** as stipulated herein.

Signed this _____ day of _____, _____

THE CONTRACTOR MUST INDICATE WHETHER CORPORATION, PARTNERSHIP, COMPANY, (OR INDIVIDUAL). THE PERSON SIGNING FOR THE CONTRACTOR WILL SIGN HIS/HER OWN NAME AND SIGN CORPORATE TITLE. WHEN THE PERSON SIGNING FOR A CORPORATION IS OTHER THAN THE PRESIDENT OR VICE PRESIDENT, HE/SHE MUST FURNISH A CORPORATE RESOLUTION SHOWING HIS/HER AUTHORITY TO BIND THE CORPORATION.

Contractor Name: _____ (Affix Contractor's Corporate Seal Above)

Mailing Address: _____

Telephone Number: _____ Fax Number: _____ E-mail Address: _____

_____	_____	_____	_____
Authorized Signatory	Printed Name	Title	Date

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023

TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement

STATE OF _____

COUNTY OF _____

BEFORE ME, THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED _____ _____, WHO, BEING DULY SWORN, DEPOSES AND SAYS THAT THEY ARE A DULY AUTHORIZED FLORIDA LICENSED INSURANCE AGENT, PROPERLY LICENSED UNDER THE LAWS OF THE STATE OF_____, TO REPRESENT _____ _____OF _____ _____,

A COMPANY AUTHORIZED TO MAKE CORPORATE SURETY BONDS UNDER THE LAWS OF THE STATE OF _____ (THE "SURETY").

SAID _____ FURTHER CERTIFIES THAT AS AGENT FOR THE SAID _____THEY HAVE SIGNED THE ATTACHED BOND AS A LICENSED AGENT, IN THE SUM OF 5% OF THE BID AMOUNT SHOWN ON ATTACHMENT "F" BID PRICE SCHEDULE, ON BEHALF OF_____, TO THE CITY OF COCOA COVERING _____ titled _____ IN COCOA**,** FLORIDA.

NOTARY PUBLIC _____

STATE OF _____

MY COMMISSION EXPIRES:_____

Surety Name: _____ (Affix Surety's Corporate Seal Above)

Attorney in Fact for Signature	Printed Name of Attorney in Fact	Florida Licensed Agent Signature	Printed Name of Licensed Agent	License Surety Number
_____	_____	_____	_____	_____

Surety Mailing Address: _____ Agent Mailing Address: _____

_____ _____

Telephone Number: _____ Telephone Number: _____

Fax Number: _____ Fax Number: _____

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Attachment "E"
Bid Price Schedule and Acceptance of Terms and Conditions

Each Bidder shall fill out and complete the Bid Schedule form included in this Section and shall submit the appropriate number of copies as part of the Bid. The purpose of the Bid Schedule is to provide a uniform comparison of the bids. This Contract is a **LUMP SUM CONTRACT consisting of two separate project sums. Award of this contract will be based on the Total Lump Sum Price of the Base Bid Items.** The Bidder is to include all costs Bidder may anticipate during the length of this project and the contract. Each Bidder shall include all extras the Bidder may determine necessary to provide the quantity and quality of Work required by the Contract Documents. Fill in the following bid breakdown which will be used to determine bid completeness and understanding, then fill in the Subtotal and Total Lump Sum Bid Prices on the lines provided. The total bid price must be equal to the sum of the values in the bid breakdown. The verified sum of the individual values in the bid breakdown takes precedence over any discrepancy between the Total Lump Sum Bid Price written and the corrected total lump sum bid price.

BASE: GW Filter #3 IMS Cap and Media Replacement

Item	Item Description	Unit	Total Price
1	Leopold Parts & Inspection (same amount as in Appendix A of Technical Specifications)	LS	$109,915.00
2	All other Services, Labor, Materials, and Equipment to Complete the Project as Described in this Bid Package	LS	$
Project Total			$

ALTERNATE: GW Filter #3 Pressure Cleaning & Coating

Item	Item Description	Unit	Total Price
1	Pressure Cleaning & Coating	LS	$
Alternate Project Total			$

Bidder/Contractor Name:_____

Mailing Address: _____

Telephone Number: _____ E-mail Address:_____ _____

_____ _____ FEIN: _____
Authorized Signatory Printed Name

_____ _____
Title Date

(Attachment "E" continued)

STATE OF _____COUNTY OF _____

The foregoing instrument was executed before me this ____ day of _____, 20__, by

_____as_____of_____
____, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced _____ as identification.

_____

NOTARY PUBLIC, State of _____

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

Attachment "F"
Trench Safety Certification

Section 553.62, Florida Statutes incorporates the Occupational Safety and Health Administration's (OSHA) safety standards, 29 CFR Section 1926.650 Subpart P, as the State standard. The Department of Labor and Employment Security may adopt updated or revised versions by rule. Other State or political subdivisions may also have standards that are applicable.

If trench excavation is required on the Project more than 5-feet in depth, the Bidder will identify the cost of compliance with the applicable trench safety standards in the table below. If there is no trench excavation on the Project in excess of 5-feet in depth, write "not applicable" below. All costs to comply with trench safety standards will be incidental to the Project or various related Pay Items.

	Trench Safety Measure (Description)	Units of Measure	Quantity	Unit Cost	Extended Cost
1.	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____
5.	_____	_____	_____	_____	_____

(Attach Separate Sheet if Necessary)

If applicable, this certifies that all trench excavation performed within the control of the Contractor will be in accordance with all applicable standards and with the Specifications, and with all requirements of Florida Statute, Sections 553.63(1)(a), 553.63(1)(b), and 553.63(1)(c).

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

Bidder/Contractor Name: _____

Mailing Address: _____

Telephone Number: _____ Fax Number: _____ E-mail Address: _____

_____ _____ FEIN: _____

Authorized Signatory Printed Name

_____ _____

Title Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Attachment "G"
Certificate of Non-Segregated Facilities

CERTIFICATION TO BE SUBMITTED BY CONSTRUCTION CONTRACTORS OF APPLICANTS AND THEIR SUBCONTRACTORS (APPLICABLE TO CONSTRUCTION CONTRACTS AND RELATED SUBCONTRACTS EXCEEDING TEN THOUSAND DOLLARS (US $10,000.00) WHICH ARE NOT EXEMPT FROM THE EQUAL OPPORTUNITY CLAUSE)

The construction Contractor certifies that it does not maintain or provide, for its employees, any segregated facilities at any of its establishments and that construction Contractor do not permit its employees to perform their services at any location, under construction Contractor's control, where segregated facilities are maintained. The construction Contractor certifies that it will not maintain or provide, for its employees, segregated facilities at any of its establishments and that construction Contractor will not permit its employees to perform their services at any location, under construction Contractor's control, where segregated facilities are maintained. The construction Contractor agrees that a breach of this certification is a violation of the equal opportunity clause in this Contract. As used in this certification, the term "segregated facilities" means any waiting room, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, and transportation and housing facilities provided for employees which are segregated by explicit directives or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason. The construction Contractor agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding ten thousand dollars (US $10,000.00) which are not exempt from the provisions of the equal opportunity clause and that construction Contractor will retain such certifications in its files.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

Bidder/Contractor Name:_____

Mailing Address: _____

Telephone Number: _____ E-mail Address:_____ _____

_____ _____ FEIN: _____
Authorized Signatory Printed Name

_____ _____
Title Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

Attachment "H"
Drug-Free Workplace Certification

When applicable, the drug-free certification form below must be signed and returned with the ITB response.

In order to have a drug-free workplace program, a business shall:

A. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

B. Inform employees about the dangers of drug abuse in the workplace, the business' policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.

C. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in the first paragraph.

D. In the statement specified in the first paragraph, notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893, Florida Statutes, or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.

E. Impose a sanction on, or require the satisfactory participation in, a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.

F. Make a good faith effort to continue to maintain a drug-free workplace through implementation of the foregoing provisions.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

_____
AFFIANT SIGNATURE

_____
Typed Name of AFFIANT

_____
Title

STATE OF _____
COUNTY OF _____

The foregoing instrument was executed before me this ____ day of _____, 20__, by _____as_____of_____ _____, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced _____ as identification.

_____
NOTARY PUBLIC, State of _____

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE – (if applicable)

Attachment "I"
Conflict of Interest and Non-Collusion Statement

A. This sworn statement is submitted by_____ whose business address is [Name of entity submitting sworn statement] and (if applicable) its Federal Employer Identification Number (FEIN) is _____ of the individual signing this sworn statement: _____.

My name is _____ and my relationship to the above entity is_____.

[Please print name of individual signing]

B. **CONFLICT OF INTEREST**

A. The entity hereby submits a proposal/offer to ITB # _____ for _____ Services.

B. The AFFIANT has made diligent inquiry and provided the information in this statement affidavit based upon its full knowledge.

C. The AFFIANT states that only one submittal for this solicitation has been submitted and tendered by the appropriate date and time and that said above stated entity has no financial interest in other entities submitting a proposal for the work contemplated hereby.

D. Neither the AFFIANT nor the above-named entity has directly or indirectly entered into any agreement, participated in any collusion or collusive activity, or otherwise taken any action which in any way restricts or restraints the competitive nature of this solicitation, including but not limited to the prior discussion of terms, conditions, pricing, or other offer parameters required by this solicitation.

E. Neither the entity nor its affiliates, nor anyone associated with them, is presently suspended or otherwise prohibited from participation in this solicitation or any contract to follow thereafter by any government entity.

F. Neither the entity nor its affiliates, nor anyone associated with them, have any potential conflict of interest because and due to any other clients, contracts, or property interests in this solicitation or the resulting project.

G. I hereby also certify that no member of the entity's ownership or management or staff has a vested interest in any City Division/Department/Office.

H. I certify that no member of the entity's ownership or management is presently applying, actively seeking, or has been selected for an elected position within City of Cocoa government.

I. In the event that a conflict of interest is identified in the provision of services, I, the undersigned will immediately notify the City in writing.

C. **NON-COLLUSION PROVISION CERTIFICATION**

The undersigned hereby certifies, to the best of his or her knowledge and belief, that on behalf of the person, firm, association, or corporation submitting the bid certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the submitted bid. Failure to submit the executed statement as part of the bidding documents will make the bid nonresponsive and not eligible for award consideration.

D. **LOBBYING CERTIFICATION**

The undersigned hereby certifies, to the best of his or her knowledge and belief, that:

1. No City appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence either directly or indirectly an officer or employee of the City, City Council Member of Congress in connection with the awarding of any City Contract.
2. If any funds other than City appropriated funds have been paid or will be paid to any person for influencing or attempting to influence a member of City Council or an officer or employee of the City in connection with this contract, the undersigned shall complete and submit Standard Form-L "Disclosure Form to Report Lobbying", in accordance with its instructions.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

_____
AUTHORIZED SIGNATURE

_____
Typed Name of AUTHORIZED SIGNATORY

_____
Title

STATE OF _____
COUNTY OF _____

The foregoing instrument was executed before me this ____ day of _____, 20__, by _____as_____of_____ _____, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced _____ as identification.

_____

NOTARY PUBLIC, State of _____

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

Attachment "J"

Organizational Information

The Bidder must include a copy of their State Certificate of Good Standing/Articles of Incorporation, which lists the corporate officers. In addition to the aforementioned documents the Bidder/Bidder must include necessary information to verify the individual signing this proposal/bid and or any contract document has been authorized to bind the corporation. Examples include:

A. A copy of the Articles of Incorporation listing the approved signatories of the corporation.

B. A copy of a resolution listing the members of staff as authorized signatories for the company.

C. A letter from a corporate officer listing the members of staff that are authorized signatories for the company.

TYPE OF ORGANIZATION					
(Please place a check mark (✓) next to applicable type)					
	Corporation		Partnership		Non-Profit
	Joint Venture		Sole Proprietorship		Other (Please specify)
State of Incorporation					
Principal Place of Business (Enter Address)					
Federal I.D Number					

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

Bidder/Contractor Name:

_____

Mailing Address:

_____

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	**Solicitation Number: ITB B-23-14-COC**
	INVITATION TO BID (ITB)	**Due Date: 02/15/2023**
TITLE:	**City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement**	

Telephone Number: _____ Fax Number: _____ E-mail Address: _____

_____ _____ FEIN: _____

Authorized Signatory Printed Name

_____ _____

Title Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023

TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement

Attachment "K"
Proposed Schedule of Subcontractor Participation

☐ **No Subcontracting (of any kind) will be utilized on this project.**		**Total Project Amount: $**	
Subcontractor Minority Code (if applicable)	Company Name Address Phone, Fax, Email	Trade, Services or Materials portion to be subcontracted	Percent (%) of Scope/Contract
Federal ID			Dollar Value
PERCENTAGE TOTALS FOR SUBCONTRACTOR PARTICIPATION			
PERCENTAGE TOTALS FOR MINORITY SUBCONTRACTOR PARTICIPATION			

Minority Code	Code Description	Minority Code	Code Description
AA	African American	NA	Native American
A	Asian/Pacific Islander	W	Woman
H	Hispanic	SDVBE	Service Disabled Veteran

When applicable, the Bidder, will enter into a formal agreement with the subcontractors identified herein for work listed in this schedule conditioned upon execution of a contract with the City. By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	**Solicitation Number: ITB B-23-14-COC**
	INVITATION TO BID (ITB)	**Due Date: 02/15/2023**
TITLE:	**City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement**	

Bidder/Contractor Name:
_____

Mailing Address: _____

Telephone Number: _____ Fax Number: _____ E-mail Address: _____

_____ _____ FEIN: _____
Authorized Signatory Printed Name

_____ _____
Title Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

Attachment "L"

References

The Firm shall complete and submit this Reference Form as a part of their bid response. **Provide a minimum of five (5) projects performed by the Firm and completed within the last five (5) years**, which are similar type, scope, and complexity. References from projects that are at substantial completion will be accepted. (A Reference from City of Cocoa is not acceptable). The contact person provided shall be a person who has personal knowledge of the Bidder's performance for the specific requirements listed and is aware the City may be contacting them.

Project #1:				
Project Name:				
Type of Project/Service:				
Address:				
Contracting Agency/Client:				
Contact Name and Phone #:				
Contact Email Address and Fax #:				
Contract Amount:	Start Date:		End Date:	
Project #2:				
Project Name:				
Type of Project/Service:				
Address:				
Contracting Agency/Client:				
Contact Name and Phone #:				
Contact Email Address and Fax #:				
Contract Amount:	Start Date:		End Date:	
Project #3:				
Project Name:				
Type of Project/Service:				
Address:				
Contracting Agency/Client:				
Contact Name and Phone #:				
Contact Email Address and Fax #:				
Contract Amount:	Start Date:		End Date:	
Project #4:				
Project Name:				
Type of Project/Service:				
Address:				
Contracting Agency/Client:				
Contact Name and Phone #:				
Contact Email Address and Fax #:				
Contract Amount:	Start Date:		End Date:	
Project #5:				
Project Name:				
Type of Project/Service:				
Address:				
Contracting Agency/Client:				
Contact Name and Phone #:				
Contact Email Address and Fax #:				
Contract Amount:	Start Date:		End Date:	

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	**Solicitation Number: ITB B-23-14-COC**
	INVITATION TO BID (ITB)	**Due Date: 02/15/2023**

TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement

☞Failure to submit this form may be grounds for disqualification of your submittal☜

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Attachment "M"

Truth-in-Negotiations Certification

For lump-sum or fixed-fee Professional Service Agreements over One Hundred Ninety- Five Thousand and 00/100 Dollars ($195,000.00), the City requires the Respondent to execute this certificate and include it with their submittal.

Upon execution of an Agreement, Respondent hereby certifies that, in accordance with Section 287.055(5)(a), Florida Statutes (as amended), the wage rates and other factual unit costs supporting the compensation under this Agreement are accurate, complete and current as of the time of entering into this Agreement. The Parties agree that the City may adjust the original Agreement price and any additions thereto to exclude any significant sums by which the City determines the Agreement price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such price adjustments must be made within one (1) year following the end of the Agreement.

Proposer/Contractor Name:
_____

Mailing Address:
_____

Telephone Number: _____ Fax Number: _____ E-mail Address: _____

_____ _____ FEIN: _____
Authorized Signatory Printed Name

_____ _____
Title Date

STATE OF _____
COUNTY OF _____

The foregoing instrument was executed before me this ____ day of _____, 20__, by _____as_____of_____ _____, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced _____ as identification.

_____
NOTARY PUBLIC, State of _____

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Attachment "N"

Solicitation Response Identification Label

NOTICE TO ALL RESPONDENTS: For your convenience, the label below has been provided to properly identify your solicitation submittal. Place your submittal in a sealed envelope or package, type or print the company name and address in the area provided below and affix the label on the outer surface of the envelope or package.

City requests that all visitors call the Purchasing & Contracts Division from the courtesy phone located on the 1st Floor reception area. If you are hand-delivering a solicitation, a time/date stamp will be available at the receptionist desk. The solicitation submittal envelope or package and label will be date stamped and the Purchasing & Contracts Division will be notified. A record of all deliveries and delivery times will be documented on the Package Sign-In Sheet Receipt Log and such record will be retained.

PLEASE FILL OUT THE LABEL BELOW AND ATTACH SAME TO YOUR SOLICITATION RESPONSE ENVELOPE OR PACKAGE.

Cut out the label and tape it to the outer sealed solicitation envelope or package.

✂----------

****DO NOT OPEN**SEALED SOLICITATION**DO NOT OPEN**SEALED SOLICITATION****

ATTENTION: **PURCHASING & CONTRACTS DIVISION**

SOLICITATION NUMBER: **ITB BID #23-14-COC**

TITLE: **City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement**

SOLICITATION DUE DATE: 02/15/23 TIME: 3:00pm Local Time

FROM: _____

_____

_____

DELIVER TO: City of Cocoa
Purchasing & Contracts Division
65 Stone Street
Cocoa, Florida 32922

****DO NOT OPEN**SEALED SOLICITATION**DO NOT OPEN**SEALED SOLICITATION****

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Attachment "O"

Contractor Certification Regarding Scrutinized Companies

Section 287.135, Florida Statutes, prohibits companies from bidding, submitting proposals, entering into or renewing contracts with a local government for goods or services that are on the Scrutinized Companies with Activities in Sudan List, on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Syria. Both lists are created pursuant to section 215.473, Florida Statutes.

In addition, regardless of contract value, the companies shall not be listed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or be engaged in a boycott of Israel if bidding, submitting proposals, entering into or renewing contacts with a local government for goods and services.

As the person authorized to sign on behalf of the company, I hereby certify that the company identified below is not listed on the Scrutinized Companies with Activities in Sudan List, is not listed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Syria. In addition, the company is not listed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel.

I further understand that pursuant to the Florida Statutes, the submission of a false certification, being placed on any of the Lists as indicated herein, conducting business operations with Syria, or boycotting Israel may subject the company to termination of the agreement, civil penalties, attorney's fees, and/or costs.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the company, certify that the information as provided in this **Contractor Certification Regarding Scrutinized Companies**, is truthful and correct at the time of submission.

Proposer/Contractor Name:

_____

Mailing Address:

_____

Telephone Number: _____ Fax Number: _____ E-mail Address: _____

_____ _____ FEIN: _____

Authorized Signatory Printed Name

_____ _____

Title Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE

☞Failure to submit this form may be grounds for disqualification of your submittal☜

Attachment "P"

E-Verify Contractor Affidavit

I hereby certify that _____ [insert contractor company name] does not employ, contract with, or subcontract with an unauthorized alien, and is otherwise in full compliance with, section 448.095, Florida Statutes.

All employees hired on or after January 1, 2021 have had their work authorization status verified through the E-Verify system.

A true and correct copy of _____ [insert contractor company name] proof of registration in the E-Verify system is attached to this Affidavit.

_____
Print Name: _____
Date: _____

STATE OF FLORIDA
COUNTY OF _____
The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ (date) by _____ (name of officer or agent, title of officer or agent) of _____ (name of corporation acknowledging) , a _____ (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ (type of identification) as identification.

_____
[Notary Seal] Notary Public

_____
Name typed, printed, or stamped
My Commission Expires: _____

PLEASE COMPLETE AND SUBMIT WITH YOUR RFP RESPONSE
PROOF OF REGISTRATION FROM E-VERIFY SYSTEM MUST BE ATTACHED
☞Failure to submit this form may be grounds for disqualification of your submittal☜

EXHIBIT A

Technical Specifications include Appendix A-D in the document titled "EXHIBIT A:Technical Specifications"

Attached as a separate file.

Dyal Groundwater Filter #3
IMS Cap and Media Replacement
(Bid # B-23-14-COC)

EXHIBIT A - TECHNICAL SPECIFICATIONS
ISSUED FOR BID

January 2023

CITY OF COCOA
Utilities Engineering Division

351 Shearer Boulevard
Cocoa, FL 32922
Phone (321) 433-8700

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1. SCOPE OF WORK

1.1 GENERAL

The Dyal Water Treatment Plant (WTP), located at 28400 SR 520, Christmas, FL 32709, has a total of six (6) double-cell, dual-media gravity filters in its groundwater treatment train. All filters utilize the Leopold Type S underdrain system, with traditional sintered-bead integral media support (IMS) caps in lieu of support gravel, a 12" layer of silica sand, and an 18" layer of anthracite coal.

This section defines the scope of work and requirements for the removal and replacement of existing filter media and IMS caps in Groundwater Filter No. 3, but not limited to, the following generally described items:

1. Removal of existing filter media (sand and anthracite) and disposal.
2. Removal and installation of grout fillets and seal channels.
3. Removal, replacement, inspection and testing of underdrain IMS caps.
4. Pressure washing of interior surface of each filter basin, overflow troughs and media retaining weirs (Bid Alternate).
5. Coating of filter basin interior (Bid Alternate).
6. Procurement of filter media to the plant.
7. Installation of filter media.

Contractor shall procure the services of Leopold to furnish parts and inspect and test the existing Leopold Type S underdrains with IMS Caps for the filters being rehabilitated. Appendix A contains a proposal obtained by the City for such services. The budget amount for the required Leopold contract is included separately on the Bid Form, and should not be included in the bid amount entered by the Contractor.

Existing media has developed encrustation of calcium carbonate on the filter media. The original depth of the sand and anthracite media was 12 inches and 18 inches respectively. The total depth of the media with the encrustation is approximately 51 inches.

To meet Florida Department of Environmental Protection (FDEP) regulations for virus removal, the groundwater filters are enclosed with a canopy and screened walls to prevent airborne debris, insects, birds, etc. from entering the filter area. Contractor shall use the canopy hatches, doors or remove part of the screening to access filters for equipment, hoses, etc. Hatches, doors and screens shall be closed after each work day.

1.2 CONTRACTOR QUALIFICATIONS

Contractor shall have previous experience in filter replacement similar to the size and type of filters for this project using vacuum extraction of media and conveying media slurry as described in this specification. Contractor shall have performed a minimum three filter media replacement projects within the past five years that are similar to the work described previously.

1.3 PRE-CONSTRUCTION MEETING

1.3.1 Timing

Within 7 days of issuance of Notice to Proceed/Original Purchase Order, Contractor is required to schedule a Pre-Construction Meeting. The meeting shall take place within 21 days of issuance of Notice to Procced. The location of the meeting will be the work site: The Dyal Water Treatment Plant, located at 28400 SR 520, Christmas, FL, 32709. **No work is to occur prior to the pre-construction meeting.**

1.3.2 Agenda

The following are items that, amongst others, will be discussed at the Pre-Construction Meeting:

- Contact Information
- Contract Requirements
    - Performance and Payment Bond
    - Completion Deadline
    - Pay Request Processing
    - Change Order Procedure
    - General Warranty
- Submittal Procedure
- Inspection
- Request for Information (RFI) Procedure
- Contractor Safety Plan
- City/Plant Safety Training Requirements
- Procedures for Requesting Substantial and Final Completion

1.3.3 Required Documentation

At the Pre-Construction Meeting, the Contractor will be required to produce the following documentation:

- A Critical Path Method (CPM) schedule of the work to be completed, showing lead time for materials, mobilization, important dates requiring action by Dyal plant staff.
- Performance and Payment Bond (Section 3.02 of ITB Form) for the full contract amount.

1.4 SUBMITTALS

1.4.1 General

All materials to be used in the completion of this work shall be submitted by the Contractor for approval by the City. Submittals shall be via email and PDF-format attachments.

1.4.2 Submittal Log

All submittals must be ordered numerically for documentation control purposes. A log of submittals, along with the dates on which they were received and on which the response was sent, shall be kept by the City.

1.4.3 Required Submittals

The following is a list of submittals that, among others, will be required to be submitted by Contractor and approved by City. This is not a complete list, and other submittals not listed will also be required as determined by the City.

- Leopold shop drawings for IMS Caps
- ID's of all Workers
- Schedule of Values
- Pre-construction and post-construction photographs (Photographically document the work area before and after construction. Take a minimum of 30 photos of the anticipated work area. Submit photos via email to City.)
- Testing reports for filter media
- Certification of Installation of Leopold Underdrain Caps
- Certification of Installation from Media Manufacturer

1.5 ADDITIONAL GENERAL CONDITIONS AND REQUIREMENTS

- Contractor shall perform 100 percent of the onsite labor with its own employees.

- Contractor and Subcontractor(s) shall submit a list of employees and provide a copy of government issued photo identification (i.e. passport, driver's license, state identification, etc.) prior to beginning construction. List shall be updated daily and provided to City. Staff will need a valid government issued photo identification to be allowed onto the Dyal Water Treatment Plant site.

- All Contractor and Subcontractor(s) personnel shall complete the City's safety training requirements for the site prior to beginning work.

- Temporary Facilities: Contractor is responsible for providing temporary facilities to complete the work such as, but not limited to, the following: field office, power, telephone, water (unless noted otherwise herein), sanitary facilities, etc.

1.6 REFERENCES

The following is a list of standards (latest edition) which may be referenced in this section:

- American Water Works Association (AWWA): B100, Filtering Material.
- NSF International (NSF):
    - NSF/ANSI 61, Drinking Water System Components - Health Effects.
    - NSF/ANSI 372, Drinking Water System Components - Lead Content.

2. PROJECT COORDINATION AND WORK CONSTRAINTS

2.1 GENERAL

Each filter is comprised of two cells which hold the media and a center waste gullet. Influent water enters the filter at the top of the waste gullet and flows over gullet walls to each cell. Water flows through media to underdrains at the bottom of each cell, where filtered water drains through penetrations at the bottom of the cell walls to the finished water clearwell via piping. Filters do not have a filter-to-waste ability.

Backwash water flows up through the cells and over the launders to the waste gullet. A drain valve at the end of the waste gullet allows removal of backwater from the basin. Water that does not flow over the launders remains in the cells.

Contractor shall provide equipment to pump water out of basin as required to perform the work.

Reference Drawings have been included at the end of this section. Note the filters have been enclosed with a canopy and screened walls; the enclosure is not shown on the Drawings.

The filter shall be offline at a time to perform the work described herein. The Owner will assist with disinfection and bacteriological testing of the filter.

2.2 OTHER PROJECTS AT DYAL WTP

Other contractors may be performing work at the site near the Filter Building. Contractor shall plan and perform work without impacting other contractors.

2.3 SCHEDULE

Groundwater Filter #3 will not be taken out of service and media removal will not begin until all replacement materials have been delivered and staged on site at the Dyal WTP. Once this condition is met, a two-business day notice shall be provided to Dyal plant staff to have the tank drained. The Contractor has 30 calendar days from the date the tank has been fully drained to complete the media and IMS cap replacement, and pressure cleaning and coating (if selected).

A baseline Critical Path Method (CPM) schedule of the work to be done shall be submitted to the City at the Pre-construction Meeting.

An updated Critical Path Method (CPM) progress schedule shall be submitted with each Application for Payment. Applications for Payment will not be processed without an updated CPM progress schedule attached.

Schedule changes may only be submitted if a change in work has been previously agreed upon by both parties that affects the schedule and/or both parties have agreed upon a change in schedule. All schedule changes must be submitted to the Owner as soon as possible after being agreed upon.

2.4 WEEKLY PROGRESS CALLS

Once all materials are received and work on-site begins in earnest, weekly conference calls shall be held to recap the work completed to date and discuss the work to be done that week. These

conference calls shall, at a minimum, include the City's Project Manager, the Contractor's Project Manager, Dyal WTP Management, and any Inspectors.

2.5 APPLICATIONS FOR PAYMENT

Contractor Applications for Payment must be submitted to Owner on AIA Form #G702 (with schedule of values shown on AIA continuation sheet #G703)

An updated Critical Path Method (CPM) progress schedule shall be submitted with each Application for Payment. Applications for Payment will not be processed without an updated CPM progress schedule attached.

Before each Application for Payment is signed and notarized by the Contractor and submitted for processing to the City, Contractor shall submit a draft pay app via email for review by City and its Inspector(s) to verify claimed quantities of work done.

2.6 CHANGE ORDERS

All changes to the project scope, schedule, or contract amount must be approved in writing via the City's Change Order process before the work shall begin.

If a Change Order is needed, Contractor shall submit a Change Order Request to the City, including a cost breakdown for the work, a justification of why the change is needed, and a schedule reflecting the change and resultant impact. The cost breakdown should include the direct costs for labor, equipment and materials, along with a 5% markup for self-performed items and a 15% markup for any subcontracted items. No other markups will be allowed.

All work done outside the contract scope shall be considered "At Risk" and only considered for payment at the City's discretion.

3. MATERIALS

3.1 GENERAL

Components and Materials in Contact with Water for Human Consumption: Comply with the requirements of the Safe Drinking Water Act and other applicable federal, state, and local requirements. Provide certification by manufacturer or an accredited certification organization recognized by the Authority Having Jurisdiction that components and materials comply with the maximum lead content standard in accordance with NSF/ANSI 61 and NSF/ANSI 372. Use or reuse of components and materials without a traceable certification is prohibited. Submittals will be required for all materials used on this job, unless otherwise noted.

3.2 DELIVERY AND STORAGE OF MATERIALS

Contractor will be permitted to temporarily store materials on site. The grassy area adjacent to the filter building may be used for materials staging. IMS caps shall be stored on their pallets until ready for installation. Deliver, store and handle media in accordance with AWWA B100. Media bags or semi-bulk containers must be stored on pallets or dunnage.

All materials, pallets, bags or semi-bulk containers shall be covered with a durable opaque material to block sunlight and to provide protection from weather.

3.3 FILTER MEDIA

3.3.1 Manufacturers

- Leopold – See Appendix A thru D for further details

3.3.2 Specifications

Dual Media of Anthracite Coal and Silica Sand for Water Filters: Clean, hard, durable particles in conformance with AWWA B100 modified as follows:

Anthracite coal:

- Apparent specific gravity of 1.60 plus or minus 0.05.
- Effective size 0.95 to 1.05 millimeters.
- Mohs hardness of 2.7 or greater.
- Uniformity coefficient not more than 1.3.
- Essentially free of iron, sulfides, clay, shale, extraneous dirt, and excessive dust.

Silica sand:

- Apparent specific gravity 2.6 or greater.
- Effective size 0.45 to 0.55 millimeters.
- Uniformity coefficient not more than 1.50.

Media shall be delivered in bags or semi-bulk containers as defined in AWWA B100.

3.3.3 Testing

Contractor shall sample and test anthracite coal and silica sand in accordance with procedures specified in AWWA B100.

Testing shall be performed by an independent laboratory retained by the filter media supplier. Verification that the laboratory can perform the tests shall be submitted to the City.

Testing of media shall include:

- Oven dry, saturated-surface dry, apparent specific gravity and absorption.
- Gradation including sieve analysis and particle distribution plot (percent passed versus diameter in millimeters), uniformity coefficient, effective size.
- Acid solubility.
- Mohs hardness.

All test results are to be submitted to the Owner.

3.4 IMS CAPS, EPOXY AND HARDWARE

The underdrain IMS caps, as well as the epoxy and the hardware required to install them, will be furnished by Leopold via the proposal in Appendix A. No submittals will be required for materials procured from Leopold under this proposal. New seal channels and hardware shall be installed.

3.5 COATING MATERIALS (BID ALTERNATE)

3.5.1 Manufacturers

- Tnemec
- Sherwin-Williams
- or approved equal

3.5.2 Specifications

Use NSF polyamidoamine epoxy, approved for potable water contact and conforming to NSF/ANSI 61, such as:

- Tnemec Pota-Pox Plus Series N140
- Sherwin-Williams Macropoxy 646 PW
- or approved equal

Roll or brush apply two coats for a minimum dry film thickness of 4 mils.

Each coat color shall contrast to allow visual verification of application.

Submit manufacturer's standard colors for owner's selection of top coat.

4. FILTER MEDIA AND IMS CAP REPLACEMENT

4.1 EQUIPMENT

Equipment or other items used to perform the work shall be clean, without any surface contamination and in proper working condition to prevent contamination of the filters. Equipment that has been used for non-potable water applications are not acceptable. Spray equipment and personnel boots used inside filters with 200 mg/L sodium hypochlorite.

Existing troughs and other equipment inside filters shall not be removed to accommodate the work.

Install barrier along filters during work to isolate from existing operational filters. Barrier shall be a polyethylene plastic sheeting (e.g. Visqueen) or similar approved product. Barrier shall extend from ceiling to top of filter deck with no gaps. Barrier shall extend entire length of existing canopy. Provide overlap of barrier to allow operator access along existing walkways.

4.2 MEDIA REMOVAL

Prior to beginning work inside a filter, City shall drain water out of filter to the top of the underdrain. Contractor shall notify City two weeks prior to when a filter needs to be drained. Allow one day for Owner to drain a filter. Owner's time for draining is included in Contract Times.

Existing media shall be removed using vacuum extraction equipment. Do not walk on thin layers directly in contact with existing Leopold IMS® Cap to ensure that media particles are not ground into the IMS® Cap; same requirement applies for media installation.

Removed media shall be disposed of at the Dyal WTP South Sludge Pit; this disposal location is approximately half of a mile south of the groundwater filter basins.

4.3 UNDERDRAIN IMS CAP REPLACEMENT

The procedure for the removal and replacement of the IMS caps, grout fillets, and seal channels can be found in Appendix B.

4.4 UNDERDRAIN INSPECTION AND TESTING

Contractor shall procure the services of Leopold to inspect and test the existing Leopold Universal Type S underdrains with IMS Caps for the filters being rehabilitated.

Technical services representative from Leopold shall, at a minimum, perform the following as part of the inspection services:

- Submit underdrain test plan and inspection checklist.
- Inspect the underdrains and IMS cap including grout, caulking, plates, angles, fasteners, etc.
- Perform hydraulic testing to observe water pattern at low and high backwash rates. Test pressure loss through underdrain and IMS cap.
- Perform air testing to observe air pattern with low water level.
- During testing, check orifices, IMS cap, block joints, plates, etc. as needed if uneven patterns are observed.
- Notify City of any deficiencies and provide recommendations for correction.
- All tests and inspection reports shall be submitted to the Owner.

4.5 MEDIA INSTALLATION

4.5.1 General

Before fine media is placed, mark top of each layer on side of filter.

Potable water is available at fire hydrants located around the water treatment plant for Contractor's use to install media. Contractor shall install backflow preventer on hydrant.

4.5.2 Disposal of Water

Water discharged into the filter basins during conveying media slurry shall be drained using the drain valve located in each filter basin.

Water discharged out of the filter basin during removal of the media shall be discharged to the plant drain system. Water shall not be discharged to the ground.

Contractor shall accommodate filter backwashing operations and coordinate with Dyal plant staff. Contractor's use of plant drain system or filter drain valve will not be allowed during filter backwashing.

4.5.3 Fine Media

Deliver, store and handle media in accordance with AWWA B100. Media shall be stored in grass area adjacent to filter building. Bags or semi-bulk containers shall be covered with a durable opaque material to block sunlight and to provide protection from weather and stored on pallets or dunnage.

Transport and place fine media carefully to prevent contamination of any sort.

Replace contaminated media with clean media.

Media shall be hydraulically placed as a slurry from a hopper by use of an ejector or a pump without an impeller.

Level fine media by hand to appropriate mark prior to backwashing.

4.5.4 Installation Sequence

1. Place silica sand and level.
2. Backwash bed a minimum of three times, and remove surface fines by scraping after each washing. Backwash rate shall be a minimum of 20 gallons per minute per square foot.
3. Replace scrapings with new material after each washing to obtain the required depth.
4. Final depth of silica sand shall be 12 inches from top of underdrains.
5. Place anthracite coal and finish off smooth to proper elevation.
6. Backwash bed three times, and remove minimum of 1/2 inch of surface fines by scraping after each washing. Backwash rate shall be a minimum of 20 gallons per minute per square foot.
7. Replace scraping with material after each washing to obtain the required depth.
8. Backwash and remove surface fines until gradation is in accordance with specified bed design.
9. Final depth of anthracite coal shall be 18 inches from top of silica sand layer.

4.5.5 Field Quality Control

Contractor shall sample and test anthracite coal and silica sand in accordance with procedures specified in AWWA B100 and modified as follows. In-place filter samples shall be collected from each filter. Composite samples shall be created and tested for each filter. Testing shall be in accordance with requirements in Source Quality Control.

4.5.6 Disinfection

After installation of media is completed, Owner shall disinfect media and perform sampling and bacteriological testing. Provide Owner written notification 4 days prior to each filter being ready for disinfection. Allow 7 days for Owner's disinfection, sampling and testing prior to work being performed on next filter. Owner's time for disinfection is included in Contract Times.

4.5.7 Manufacturer's Services

Filter media manufacturer's technical representative shall be present at the jobsite continuously during placement of media for installation supervision, inspection, and certification of proper installation.

5. BID ALTERNATE – PRESSURE CLEANING AND COATING OF FILTER BASIN

5.1 GENERAL

As a Bid Alternate, Contractor shall pressure wash clean filter walls and apply coating as specified herein. Existing filter basin wall surface has been previously coated.

5.2 SURFACE PREPARATION

5.2.1 Pressure Wash Cleaning

Following removal of media, high pressure water clean interior of filter basin (minimum 3,500 psi) to remove calcium carbonate precipitation.

Where concrete is exposed from cleaning, provide surface profile in accordance with SSPC SP13. Surface profile in these cases shall meet coating manufacturer's recommendations.

Repair or replace surface damaged by cleaning.

Provide containment of pressure washing activities.

The fiberglass troughs and stainless steel media retaining weirs shall also be pressure washed or otherwise cleaned to remove scaling buildup without damaging the fiberglass.

5.2.2 Containment

Provide full containment of emissions during entire operation.

Protect filter underdrains from pressure washing. Provide continuous sealed barrier with edges tightly sealed at underdrain and wall interface. No tears, holes or penetrations shall be allowed in barrier.

Completely shroud filter area with opaque fabric that prevents spread of media, spent chips, corrosion byproducts, and dust. Exhaust air shall be filtered by appropriately sized dust collectors.

5.2.3 Application

Extent of Coating: Coatings shall be applied to internal filter basin walls from top of underdrains to top of filter deck including pipe encasements.

For coatings subject to immersion, obtain full cure for completed system. Consult coatings manufacturer's written instructions for these requirements. Do not immerse coating until completion of curing cycle.

Apply coatings in accordance with these Specifications and paint manufacturers' printed recommendations and special details. The more stringent requirements shall apply. Allow sufficient time between coats to assure thorough drying of previously applied paint.

Keep paint materials sealed when not in use. Where more than one coat is applied within a given system, alternate colors to provide a visual reference showing required number of coats have been applied.

5.2.4 Completion by Owner

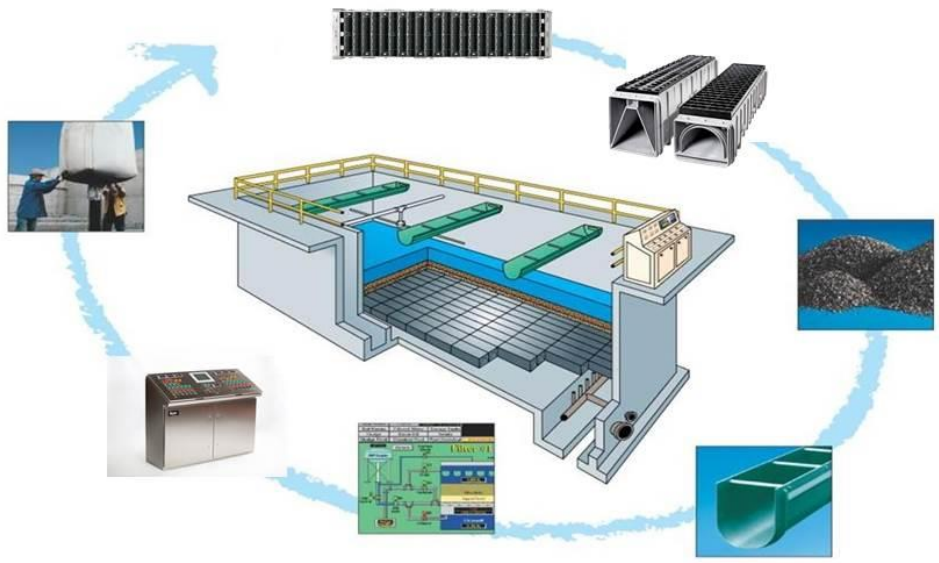
If Bid Alternate is not selected by Owner: High pressure cleaning will be performed by Owner. After high pressure water cleaning is complete, Owner shall apply coating to inside of basins. Allow 14 days for Owner's coating and curing prior to installing media. Owner's time for coating is included in Contract Times.

APPENDIX A - LEOPOLD PROPOSAL

Proposal

Dyal WTP

Cocoa, FL.



12/14/2022

Xylem Water Solutions USA, Inc.
108 Tomlinson Drive Suite 400
Zelienople, PA 16063
Mr. Chris Ball
Direct: 724-453-2109
Mobile: 724-713-7145
Email: chris.ball@xylem.com

12/14/2022

Project name : Cocoa, FL Dyal WTP
Project number : I22490

To Whom It May Concern:

Based on your inquiry, we are pleased to forward the following proposal to your attention. Thank you for the opportunity to offer our IMS equipment and services for the Cocoa, FL Dyal WTP project.

We hope that our proposal meets your expectation. If you have any questions, please do not hesitate to contact me or our local representative.

Respectfully,

Chris Ball
Senior Sales Engineer

1 Technical Description

1.1 SCOPE OF SUPPLY

We are pleased to offer the following materials and services by Xylem Water Solutions USA, Inc. This quotation has been prepared using previous Leopold contract I20447.

I.M.S® 200 MEDIA RETAINER FOR ONE (1) DUAL BAY FILTER (2 CELLS):

Under this section, we propose to furnish 1,394 square feet of I.M.S® 200 media retainer. The scope includes molded thermoplastic I.M.S® 200 media retainer to be field installed onto the existing Leopold Universal® Type S® Underdrain block by others in two (2) filter cells.

Included in this section are the required mounting screws, sealant, backer plates and plastic welder and plastic welding materials.

NOTES:

- Field trimming of the IMS 200 caps may be required to achieve a proper fit to the existing type S underdrain blocks, Field trimming if required not by Leopold.
- IMS 200 Media Retainer will have to be as long as possible with the current tooling: Approximately 46-15/16” +/- 1/16”

1.2 SERVICES

MANUFACTURER'S SERVICES (FILTER EQUIPMENT):

The services of a qualified Leopold technical representative to instruct the Contractor's personnel about the proper installation technique of the **filter equipment** will be provided for a period of six (6) days (8 hr/day) on site in two (2) trips. Additional services may be obtained at the current prevailing rate plus living and travel expenses.

2 Technical Clarification & Deviations

1. Not Used

3 Price & Scope of Supply

3.1 MAIN SCOPE

BASIS of PRICING:

Any items and/or accessories not specifically called out in this quotation must be construed as being furnished by others.

This quotation is considered firm for 90 days. Orders received more than 90 days after the date of this quotation are reviewed by Xylem Water Solutions USA, Inc before acceptance and are subject to changes in prices or delivery depending on conditions existing at the time of entry. Quoted prices are firm for delivery within 12 months from the delivery date stipulated in the plans & specifications or mutually agreed upon by Xylem Water Solutions USA, Inc. and Purchase Order issuer at time of order placement.

We do not include any applicable taxes.

Orders resulting from this quotation should be addressed to Xylem Water Solutions USA, Inc. 108 Tomlinson Drive Suite 400 – Zelienople, PA 16063, USA.

We propose to furnish the material described in this document for
a total selling price of $ 109,915.00

Pricing for the equipment and field services outlined in this proposal, DAP Jobsite per Incoterms 2020.

For further information pertaining to the equipment contained in this proposal, please contact our area representative, who is:

MTS Environmental, Inc.
27237 Fordham Drive
Wesley Chapel, FL 33543
Phone: (813) 929-4454

Attention: Bob Bierhorst

Pricing is based on the following payment terms (net 30 days):
10% following initial submittal for approval
80% following the date of the respective shipments of the product
5% following installation, not to exceed 150 days after shipment of the product *(whichever comes first)*
5% following start-up, not to exceed 180 days after shipment of the product *(whichever comes first)*

4 Commercial Terms & Conditions

4.1 DELIVERY SCHEDULE

4.1.1 Production schedule

Submittal of mechanical drawings for approval 4 to 6 weeks after order acceptance.

4.1.2 Delivery time

Delivery of fabricated items 12 - 14 weeks after drawing approval.

FILTER MEDIA WARRANTY (if applicable): SELLER warrants that its filter media products will meet the standards established by the latest edition of AWWA (American Water Works Association) B100. SELLER shall be responsible for verifying that the filter media meets or exceeds the AWWA B100 Standard at the point of sale. Testing shall be by an independent laboratory, which regularly performs testing of filter media. BUYER shall notify Xylem Water Solutions USA, Inc. immediately upon discovery of any defective product. The SELLER shall have the right to inspect said product and BUYER shall, if requested, return the defective product to the SELLER with transportation prepaid. NO LIABILITY IS ASSUMED BY THE SELLER UNDER ANY CIRCUMSTANCES FOR LABOR, MATERIAL OR OTHER COSTS ASSOCIATED WITH THE REMOVAL OR REPLACEMENT OF MEDIA UNLESS PREVIOUSLY APPROVED IN WRITING BY AN AUTHORIZED EMPLOYEE OF THE SELLER.

4.2 TERMS AND CONDITIONS OF SALE – NORTH AMERICA

This order is subject to the Standard Terms and Conditions of Sale – Xylem Americas effective on the date the order is accepted. Terms are available at http://www.xyleminc.com/en-us/Pages/terms-conditions-of-sale.aspx and incorporated herein by reference and made a part of the agreement between parties.
Different terms are hereby rejected unless expressly assented to in writing.

AGREEMENT TO PURCHASE: BUYER agrees to purchase the equipment and services herein in accordance with the terms and conditions set forth above.

_____
(BUYER)

BY:_____

_____

_____

_____, 20 _____

ACCEPTANCE: SELLER hereby accepts BUYER'S offer to purchase.

Xylem Water Solutions USA, Inc.

BY:_____

_____

_____

_____, 20 _____

APPENDIX B - LEOPOLD IMS CAP REPLACEMENT PROCEDURE

I.M.S® CAP FIELD INSTALLATION PROCEDURE

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Xylem
227 South Division Street
Zelienople, PA 16063 USA
Phone: (724) 452-6300
Fax: (724) 452-1377
www.FBLeopold.com

General

The following procedure will be used for field installation of I.M.S® Cap on Leopold Type S™ underdrains and Type SL™ underdrains in filters.

Material and Labor

- 3M Tape Sealant, ¼" diameter, Leopold P/N 118-111-027, Qty:_____ feet (20-feet required per underdrain block)
- Self-tapping screws
    - #12 x 1-1/2" hex washer head Type 316 SS, Leopold P/N 105-103-964, Qty:_____(28 required per underdrain block)
    - #14 x 2" hex washer head Type 316 SS, Leopold P/N 105-103-963, Qty:_____(use 7% of quantity required for #12 screw)

- Tools---Minimum required:
    - cordless drill with adjustable torque setting and spare batteries with chargers
    - 7/32" drill bit
    - 5/16" hex socket bit
    - 3/8" hex socket bit
    - 5/16" hex socket hand driver
    - 3/8" hex socket hand driver
    - rubber mallet
    - masonry hammer
    - 1"-wide masonry chisel
    - shopvac

- All other equipment to do the repairs---Minimum required:
    - Ladder
    - Portable lights
    - Rope and hook
    - 5 gallon buck
    - Duct tape

Procedure for Field Installation of I.M.S® Cap

1. Clean all media and debris from the underdrain. Vacuum media from caps

2. If required, remove the grout fillets at ends of the underdrain laterals for cap removal.

3. Remove screws from cap to be removed using a 5/16" hex socket attachment to drill. The cap may require a pry bar to separate it from the underdrain after the screws have been removed.

4. The 3M sealant must be scrapped from the underdrain and cap (if reused). The top deck of the underdrain and I.M.S® Cap must be completely clean and dry or the new 3M sealant will not adhere to the block.

5. If new caps are used, check to make sure the new I.M.S® Caps fit and that the predrilled holes align with the bosses on top of the underdrain block for the self-tapping screws. Note the cap has a “bell-end” and “spigot-end”. The “spigot-end” is usually marked with an “S” on the end of the cap (for new caps).

6. Use the 7/32” bits to enlarge the holes in the caps.

7. Lay the sealant tape around the perimeter shelf on the underdrain block taking care not to stretch the corners and make sure there are no gaps. Make sure it is a continuous square as well. Also, put a piece of 3M Sealant across every third rib across the top deck for a total of three (3) additional ribs. Note scissors are very good for cutting the seal tape and use a little water to wet your fingers to keep the seal tape from sticking to your fingers,

8. Carefully set the cap in place so that the gasket is not displaced and making certain the pre-drilled hole pattern in the cap is directly over the block holes. Place only part of the I.M.S Cap on the 3M sealant in a roll down fashion making sure the I.M.S Cap is not riding on surrounding guide molding on top of the filter block as this will cause leakage. An awl or small drill bit can be used to align the holes in the I.M.S Cap with the holes in the underdrain lugs.

9. Insert two #12 self-tapping screws (one at each end of the cap to hold it in place)--snug only to hold the cap in place.

10. Apply pressure around the perimeter of the cap by walking around the perimeter of the cap and use a rubber mallet to tap the edges to help compress the sealant. Look at the perimeter of the filter block where the 3M Sealant and top of the filter block meet--you will see the 3M sealant slightly excrete from around the perimeter of the cap. This will indicate a good seal.

11. Make certain that you have proper hole-alignment between the cap and filter block. Insert the #12 self-tapping screws in the cap holes and tighten to a reasonable resistance (12-15 in-lbs). Do not over tighten and strip the threads in the plastic block. If for some reason a screw becomes stripped during the I.M.S Cap installation, the next larger size screw will be needed or a #14.

12. Take one final look around the perimeter of the filter block after the cap has been installed and see that there is a good seal.

13. If applicable, re-install the 45-degree grout fillets at ends of the underdrain laterals.

14. Install filter media.

15. Disinfect filter prior to placing in service.

END OF DOCUMENT

ATTACHMENT A
REMOVING I.M.S. CAP & CLEANING SEALANT









ATTACHMENT B
APPLYING SEALANT & INSTALLING I.M.S. CAP











5 IMS Field Cutting

Xylem
227 South Division Street
Zelienople, PA 16063

Contractor Specifications: IMS Field Cutting

Procedure classification

DOCUMENT CLASSIFICATION	INTENDED DOCUMENT USE
Uncontrolled	Internal & external distribution for specific instruction to vendors

Contents

Contents 2

1. SCOPE 3

1.1. This specification includes instruction for underdrain secondary Integral Media Support (IMS) cutting operations. 3

2. IMS CUTTING 3

1.1. Cutting IMS Beaded Cap 3

1.2. Cutting IMS 200 3

1.3. Cutting IMS 1000 3

1.4. Applying X-Mas Tree Clip Binders 4

1.5. Applying 3M Weatherban Sealant (pictures #4 & 5) 4

4.8. Screw Installation ..... Error! Bookmark not defined.

1. Scope

1.2. This specification includes instruction for underdrain secondary Integral Media Support (IMS) cutting operations.

2. IMS Cutting

2.2. Cutting IMS Beaded Cap

2.2.1. Referencing Underdrain Dimensional Information chart B2084-13 cut the IMS cap to the corresponding block cut length.

2.3. Cutting IMS 200

2.3.1. Referencing Underdrain Dimensional Information chart B2284-13 cut the IMS 200 media retainer to the corresponding block cut length.

Note: To create a clean cut on the IMS 200 it is required to be placed upside down while cutting. It is also recommended that a 12", 80 tooth, carbide tipped blade with a tooth pattern design to reduce chipping and melting plastics is used.

2.4. Cutting IMS 1000

2.4.1. Referencing Underdrain Dimensional Information chart B2184-13 cut the IMS 1000 media retainer to the corresponding block cut length.

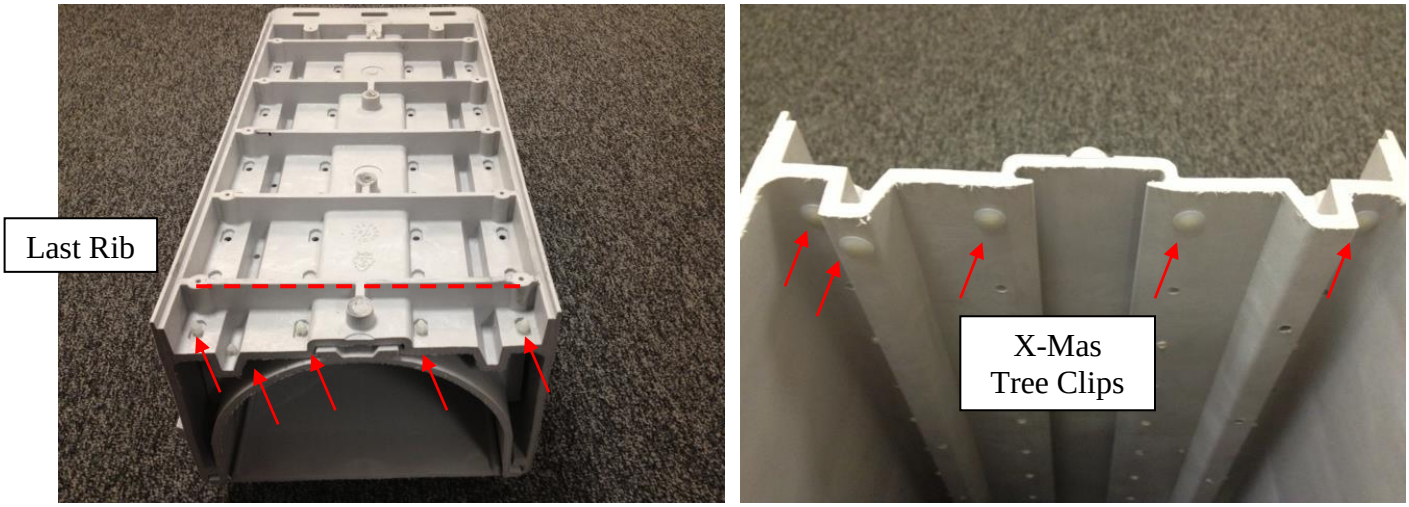


Picture #1: showing a cut make-up block with IMS Cap.

2.5. Applying X-Mas Tree Clip Binders

2.5.1. Using (.250 hole x .125-.406 grip) nylon X-mas tree clip binders, plug the holes in the top deck and water recovery channels past the last rib from the inside of the underdrain as shown in pictures #2 & 3.

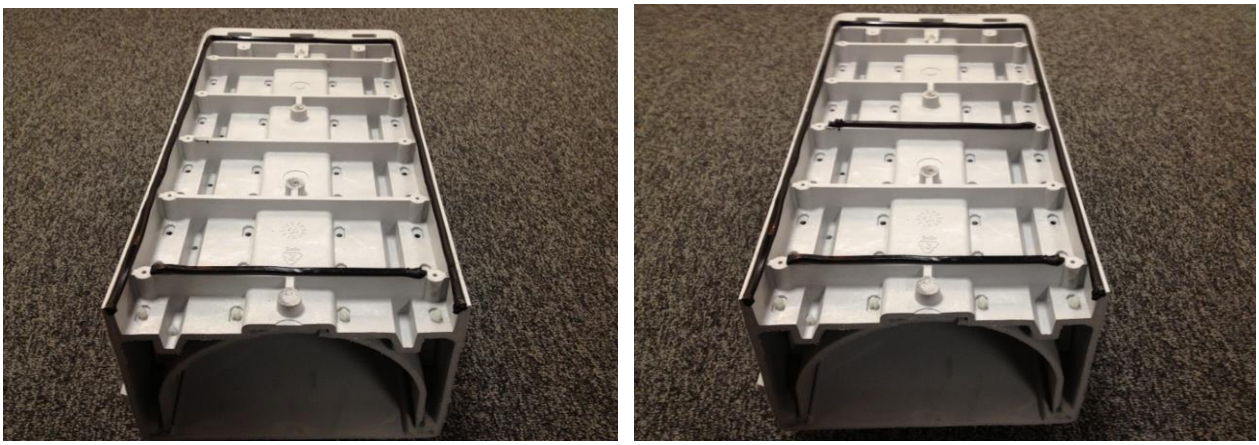
Note: these clips will be installed from inside on Type XA underdrain as shown in pictures #2 & 3 and from the outside on Types S & SL underdrain.



Pictures # 2 & 3: Showing correct application of the X-Mas Tree Clips.

2.6. Applying 3M Weatherban Sealant (pictures #4 & 5)

1. Install 3M sealant around outside perimeter of the underdrain.
2. Using scissors cut strips of sealant 8” long and place on the underdrain along the last rib as well as every third rib on the cut make-up block.
3. Keep the sealant ¼” away from the screw holes.
4. When one roll ends seamlessly start a new roll and continue where you left off.



Pictures #4 & 5: Showing the correct application of 3M Weather Ban Sealant to a Make-up block.

6 IMS Media Retainer Screw Installation

Xylem
227 South Division Street
Zelienople, PA 16063

Contractor Specifications:
IMS Media Retainer Screw Torque Check

Procedure classification

DOCUMENT CLASSIFICATION	INTENDED DOCUMENT USE
Uncontrolled	external distribution for specific instruction to contractors

1. Scope

1.1. This specification includes instructions for checking torque of IMS media retainer screws onto Xylem Leopold Type S & SL underdrain with IMS.

2. Tools Required

- Cordless drill with adjustable torque setting and spare batteries with chargers
- 5/16" hex socket bit
- Inch-pound torque wrench

3. Screw Torque Requirements

- 10 x 1-1/2" : 8 – 12 in*lbs (.90 – 1.35 NM)

4. Screw Torque Inspection

5.1.1. Check the factory installed #10 316 stainless steel screws to a torque of 8 – 12 in*lbs (.90 – 1.35 NM).

5.1.1.1. The torque of the first couple screws are required to be checked and set using a torque wrench. Once verified that the torque is correct, a cordless adjustable chucked drill can be set up to duplicate the required torque.

5.1.1.2. Random screws throughout the installation are required to be checked by the torque wrench to ensure that the drills torque is staying consistent and that the battery is not fading.

5.1.1.3. All screw heads are to be fastened fully flush onto the IMS cap. Due to the inherent process of structural foam molding that these underdrain were manufactured and some areas may be slightly denser. If the 8 – 12 in*lbs (.90 – 1.35 NM) torque does not fully seat a screw, increase the torque slightly <u>on that screw only</u>.

Should you have any further questions, please do not hesitate to contact me.

Sincerely,

David Roeser
Field Service Manager & Operations Engineer
227 South Division Street
Zelienople, PA 16063
O: 724.453.2034 M: 724.421.4523
david.roeser@xyleminc.com

7 Startup

CAUTION: **Failure to follow proper start-up and testing procedures, instructions, recommendations and cautions may void the manufacturer's warranty.**

7.1 START UP PROCEDURE

7.1.1 Introduction

The Leopold, a xylem brand, Underdrain Systems have been designed and manufactured to give many years of service when properly installed. It is necessary, however, to take special precautions during start-up.

When an underdrain installation is backwashed for the first time, the piping and underdrain laterals are susceptible to surges of hydrodynamic forces. These forces rise whenever the velocity or direction of flow is changed, such as at entrances and end of laterals and at tees, elbows, etc. The magnitude of the hydrodynamic force is directly related to volumetric flow rate and velocity.

Another force results from the development of internal pressures as the primary underdrain lateral fills with water. During this time, most of the fluid runs freely down that lateral. The flow rate and velocity are abnormally high as the water reaches the end of the lateral, where the velocity energy is converted to pressure. This excessive pressure may cause damage.

A similar pressure problem may be encountered if air is trapped in the piping system. Unrelieved air will be compressed, leading to constricted flow passages, hydrodynamic forces and internal pressure. If the air is relieved in an uncontrolled manner, the resultant water velocity gradient could cause water hammer resulting in upset gravel and possibly structural damage.

CAUTION: **The backwash rate must be limited to a rate that will not generate a differential pressure (net internal pressure) across the underdrain greater than 750 psf (5.2 psi [0.359 bar]). This is typically about 40 gpm/sf (98 m/hr). Also, filter systems using gravel for supporting the filter media must limit the maximum backwash rate to 25 gpm/sf (61 m/hr) to prevent gravel disruption uness a special gravel design has been provided.**

7.1.2 Recommended Startup Procedure

The following steps are recommended:

1. Check for post-installation damage to the underdrain and I.M.S® Media Retainer. If damaged, contact the Xylem Project Manager.
2. Assure that all orifice holes and all depressions around the orifices in the top deck are open. If I.M.S® Media Retainer is supplied, insure that it is free of grout, dirt and debris.
3. The contractor shall review the piping system and insure that air release valves have been installed at all relative high points and are operational. Vacuum check valves must be installed on any air release valves on piping subject to negative pressures. The entire wash water piping system must be free of air before backwashing. This may require a water pressurization system to SLOWLY fill the system with an external water supply.

CAUTION: **If the system drains between backwashes, it must be refilled and repressurized each time. If this occurs, the system must be checked for proper operation.**

CAUTION: **Do not use the agitator system to fill the system. This may result in media loss and/or damage to agitator bearings.**

CAUTION: **Never start the backwash pump against an open system, i.e. with valves open between the pump and the filter. If the system uses a head tank, never introduce water quickly from the head tank.**

4. Set the valves or flow controllers to about 10% of design backwash rate (1-2 gpm/sf [2.5-5 m/hr]) and start the flow slowly. Allow adequate time for trapped air to escape.
5. Carefully and thoroughly inspect the system, and correct any problems. Look for any sign of distress or movement in the system, repair leaks, etc.
6. Adjust the valves in a series of steps, (each time increasing flow by 1-2 gpm/sf [2.5-5 m/hr]) until the design rate is reached. This stepwise procedure must be followed to insure complete removal of trapped air. It may be necessary to alter the operation of some valves in order to do this. Check the system at each step. Do not increase backwash flow to a higher setting until all visual/audible air expulsion has stopped.
7. At the end of the backwash, reduce the flow by 1-2 gpm/sf (2.5-5 m/hr) increments until it stops. Check the system at each step.

NOTE: The previous guidelines emphasize two principles: 1) make changes in flow slowly and 2) eliminate all air from the system. Adherence to these guidelines can help protect the underdrain and insure reliable performance.

7.2 TESTING

Prior to placement of the support gravel and filter media it is necessary to test the underdrain for proper installation. All installations must be tested with water as described below. Systems that include air as part of the backwash cycle must also be tested with air.

CAUTION: **Before the gravel or filter media is installed, the filter control system shall be fully tested in automatic on empty filters and approved for**

automatic operation to insure that all equipment and devices perform and sequence as designed.

7.2.1 Preparation for Testing

In order to test the underdrain, it is necessary that the backwash (and air scour) flow systems be checked out and operational.

1. All open/close filter valves shall have been recently exercised and are fully operational.
2. All flow control loops shall be tested, calibrated and functional.
3. Backwash pumps shall have been run and tested.
4. All air release and vacuum check valves must be verified as operational and functional.
5. The blower and its relief and venting systems shall be operational.
6. An adequate supply of clean, disinfected backwash water shall be available for testing.
7. Testing personnel should be adequately trained to operate the system without causing hydraulic surges (water hammer), which can damage the integrity of the filter.

7.2.2 Hydraulic (Water) Testing

1. After the grout has cured for at least three (3) days, the surface of the underdrain should be inspected for clogged orifices. Debris must be removed and discarded. If I.M.S® Media Retainer pores are clogged the Media Retainers will have to be replaced. Contact the Xylem Project Manager for assistance.
2. Using clean disinfected water, the filter should be filled through the backwash piping at a slow rate of approximately 2 gpm/sf (5 m/hr).
3. Continue filling with backwash water until the water level is about 6" (150mm) above the underdrain.
4. Stop filling and drain the filter until the water level just falls below top of underdrain, i.e. the water can't be seen.
5. Inspect underdrain surface and remove any debris that may have been flushed up to the surface.
6. Start filling again. Over a period of 1-2 minutes, increase the water rate to 15-20 GPM/SF (37-49 m/hr) or the specified maximum backwash rate. As the water is rising, look for localized turbulence or boils. The pattern should be reasonably uniform over the entire filter surface. If in doubt, repeat procedure.
7. If the pattern is uneven or there is localized turbulence or boils, lower water level and inspect the underdrain for plugged orifices, clogged I.M.S® Media Retainer, bad joints, or displaced end plates. Repair as necessary and retest.
8. After all hydraulic testing has been successfully completed and if the filter employs air scour, proceed to air testing.

7.2.3 Air Testing

For those filter systems employing air scour to assist during backwash, it is necessary to test the underdrain for a proper air pattern. This should only be accomplished after successfully completing a hydraulic test.

Prior to starting the air, insure that the blower and all valves and flow measuring devices are operational.

1. Fill the empty filter through the backwash system to a water level 4-6" (100-150mm) above the top of the bare underdrain.

CAUTION: **The blower system shall have a rate control valve. Systems that employ a positive displacement type blower system shall have an automatic vent (bypass) to atmosphere valve.**

2. Positive displacement blowers will use a vent valve, while centrifugal blowers may use an in-line throttling valve. Start a positive displacement blower with the vent (bypass) valve open. Start a centrifugal blower with the throttling valve closed. Start the blower and open the air isolation (inlet) valve on the filter.

NOTE: Adjust the rate control valve slowly to obtain the design air flow rate. Adjust rate of flow from no flow to design flow over a period of approximately 60 seconds. Never start the blower so that its full capacity is delivered to the filter immediately. Refer also to the backwash and air scour sequence found later in this manual.

3. Check the air pattern in the filter. It should be reasonably uniform over the entire surface.
4. If dead spots or rows are noticed, try adjusting the air rate (up to down) to obtain a better pattern.
5. If certain areas show excessive air shut down the blower, drain the filter and examine the underdrain for punctures, bad joints, or loose end plates.

NOTE: If structural damage to the plastic or misaligned internal joints is found, it will be necessary to do a fusion weld repair. Contact the Xylem Project Manager for assistance.

7.2.4 Concurrent Air and Water Testing

For those filter systems employing concurrent air and water to assist during backwash, it is necessary to test the underdrain for a proper air/water pattern. This should only be accomplished after successfully completing a hydraulic test and air scour test.

All the conditions required for the hydraulic and air testing apply to the concurrent air and water testing.

1. In most cases, start with a water level 4”-6" (100-150mm) above the top of the bare underdrain.
2. Positive displacement blowers will use a vent valve, while centrifugal blowers may use an in-line throttling valve. Start a positive displacement blower with the vent (bypass) valve open. Start a centrifugal blower with the throttling valve closed. Start the blower and open the air isolation (inlet) valve on the filter.

NOTE: Adjust the rate control valve slowly to obtain the design air flow rate. Adjust rate of flow from no flow to design flow over a period of approximately 60 seconds. Never start the blower so that its full capacity is delivered to the filter immediately. Refer also to the concurrent air/water sequence found later in this manual.

3. After a reasonably uniform air pattern is established at the specified concurrent air rate over the entire filter surface, slowly introduce the backwash water to the specified concurrent rate.
4. Check the air/water pattern in the filter. It should be reasonably uniform over the entire surface.
5. If dead spots or rows are noticed, try adjusting the air and water rates slightly (up or down) to obtain a better pattern.
6. If certain areas show excessive air shut down the blower, drain the filter and examine the underdrain for punctures, bad joints, or loose end plates.

NOTE: If structural damage to the plastic or misaligned internal joints is found, it will be necessary to do a fusion weld repair. Contact the Xylem Project Manager for assistance.

7.2.5 Final Checks

At the conclusion of the air and water testing the entire underdrain installation shall be inspected for loose grout joints between the laterals and grout fillets around the perimeter.

8 Maintenance

CAUTION: **Failure to follow proper maintenance procedures, instructions, recommendations and cautions may void the manufacturer's warranty.**

8.1 GENERAL

No periodic maintenance of the underdrain is required. However, at any time the filter is taken out of service and media and/or gravel are removed, the following should be checked:

1. Make certain that all orifices in top of underdrain block are open.
2. I.M.S® Media Retainer is a media barrier that is used to replace support gravel. It is important that the I.M.S® Media Retainer is inspected during regular media change out procedures. Inspection should include, but not be limited to; pore openings not clogged, screws secure and sealant intact. Should you require inspection from a qualified Xylem Service Representative for such inspections, please contact the Xylem Project Manager.
3. Check grout between laterals and at filter wall for deterioration. Repair/replace as necessary.

9 Warranty, Service, Parts

Xylem
227 South Division Street
Zelienople, PA 16063 USA
PHONE: (724) 452-6300
FAX: (724) 452-1377
www.FBLeopold.com

9.1 GENERAL WARRANTY

CAUTION: **Failure to follow all installation, operating and maintenance procedures, instructions, recommendations and cautions may void the manufacturer's warranty.**

Unless otherwise specifically agreed to in writing, Xylem offers a limited warranty for defects in workmanship and material for all equipment sold for a period not to exceed **15 months** from shipment or **12 months** from initial operation, whichever occurs first. Warranty replacement of components deemed by Xylem to be defective as a result of design or manufacturing will be replaced at no cost within the warranty period. Replacement shall not be construed to include labor for removal or reinstallation of the unit or parts deemed defective.

To place a warranty claim, please contact our SERVICE DEPARTMENT at the address shown above.

9.2 I.M.S® Media Retainer WARRANTY

Unless otherwise specifically agreed to in writing, Xylem offers a limited warranty for defects in workmanship and material for the I.M.S® Media Retainer for a period not to exceed **15 months** from date of shipment or **12 months** from initial operation, whichever occurs first. Warranty replacement of components deemed by Xylem to be defective as a result of design or manufacturing will be replaced at no cost within the warranty period. Replacement shall not be construed to include labor for removal or reinstallation of the unit or parts deemed defective.

CAUTION: **The I.M.S® Media Retainer product has been reviewed and approved by Xylem for this particular application. Any modifications to the treatment process, chemistry or otherwise, will require Xylem's review and approval for the I.M.S® Media Retainer in the modified treatment process. Any failure of the product as a result of any modifications of the treatment process, chemistry or otherwise, are not covered under this or any other warranty.**

9.3 SERVICE

Xylem Field Service is available for this equipment on a paid basis and can be arranged by contacting the SERVICE DEPARTMENT at the above number.

NOTE: Forty-five (45) day notice is needed to schedule a Xylem Field Service Representative.

9.4 PARTS

Reference to the Parts ID drawing(s) included within this manual will indicate those replacement parts that are available to the owner/user.

Please contact the PARTS DEPARTMENT at the above number for assistance. Please be certain to have the model number and the project location in hand. After installation there are no replaceable parts needed for the Leopold, a xylem brand, Underdrain System.

10 IMS Cap Monitoring Operation & Maintenance

1.0 MONITORING PROCEDURE

The I.M.S® Media Retainer is a filter media barrier that is used to replace support gravel. In cases where there is the potential for fouling due to biology or mineral scaling, a monitoring program must be in-place to assess if fouling is occurring. The goal of monitoring is to determine whether the headloss across the media retainer is increasing over time. The following is one suggested method for measuring headloss.

- Measure the headloss across the filters at least monthly during backwashing on every filter. Pressure readings should always be taken at the same backwash rate for comparison. This may involve individual pressure gauges or sensors near each filter backwash inlet or a single pressure gauge or sensor located on a common backwash header for all the filters. Refer to appendix A for headloss measurement instructions.

If there is a change of 2 psi or greater in total backwash system head loss, from the baseline filter condition, then appropriate maintenance procedures must be followed. See Section 3.0 for maintenance instructions.

2.0 OPERATING PROCEDURE

A. Control of Biological Fouling

1. The filter I.M.S® Media Retainer requires the filter influent or backwash water to be chlorinated. The filter influent or backwash water should contain a minimum of 1-2ppm of chlorine residual. If the influent or backwash water does not contain the required chlorine residual, refer to item 2 and 3 below for alternate methods.

2. Perform periodic disinfection of the filter to control biological or algal growth. This will usually involve chlorine, which can be added to the backwash water. The exact dosage and sequence will have to be determined based on specific project conditions but a starting dosage of 2-3 ppm can be used. The chlorine should be added approximately once per week in the backwash water.

   Note: Since all water treatment systems are different, the above dosing and frequency should be considered guidelines, or starting points. It is the responsibility of the WATER PLANT to determine the appropriate parameters for there plant.

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3. An alternate method may be used for disinfection of the I.M.S® Media Retainer if it is determined that periodic disinfection during the backwash phase is detrimental to the filter media biology. This would involve adding disinfection or cleaning solution periodically to the bottom of the filter only. The following procedure is suggested. *

    a. Drain the water from the filter and flume (lower gullet).

    b. Inject the disinfection/cleaning solution with backwash water at a predetermined concentration. The backwash flow rate should be no greater than 5 gpm/sf and the total quantity should be calculated or the level monitored at top of underdrain to determine when to stop the backwash water.

    c. Let the disinfection/cleaning solution soak the I.M.S® Media Retainer for at least eight (8) hours.

    d. Drain the solution to waste.

    e. Backwash thoroughly, slowly at first.

B. Control of Calcium Carbonate Scaling

1. The use of the filter I.M.S® Media Retainer in association with lime softening, pH adjustment, or other water conditions requires that control of the process be maintained to prevent the precipitation of calcium carbonate in the filters which could result in fouling of the caps.

2. One method used to prevent calcium carbonate precipitation is to use recarbonation with carbon dioxide (CO_2) and maintain the proper pH of the water ahead of the filters to prevent the conditions which will allow for calcium carbonate deposits to form on the I.M.S® Caps. Typically, this requires that certain water quality parameters of the water entering the filters be monitored for calculation of an index that shows the potential for scaling. The Langelier Saturation Index (LSI) is one such index often used. Typically, to prevent scaling requires that the index be less than or equal to zero. Note that pH_s (pH of saturation) is the function of :
    - pH of water
    - Temperature (in degrees Celsius)
    - Total dissolved solids (TDS in mg/L)
    - Calcium hardness (mg/L as $CaCO_3$)
    - Alkalinity (mg/L as $CaCO_3$)

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And if pH_s is lower than the actual pH, calcium carbonate scale will form. If on the other hand, pH_s is higher than actual pH, then the water will not precipitate calcium carbonate. You will have to, therefore, adjust the alkalinity by increasing or decreasing the amount of CO_2 to make sure that pH_s is equal to or higher than the actual pH.

3. Another alternative is to feed a deposit inhibitor to prevent calcium carbonate scale from forming. These are usually polyphosphates fed at 1 mg/L to 2 mg/L to the effluent of the softening process and before the filters.

C. Control of Scaling due to Iron and Manganese

1. The use of the filter I.M.S® Media Retainers in association with iron and manganese requires that control of the process be maintained to prevent the precipitation of these constituents in the filters which could result in fouling of the caps. Generally, iron and manganese are only a concern in treated water supplies when they exceed concentrations above 0.3 mg/L for iron and 0.05 mg/L for manganese. Iron and manganese are usually encountered as soluble forms in groundwater or deep reservoirs.

2. Both iron and manganese can be removed from water by oxidizing them to the insoluble forms, ferric hydroxide and manganese oxide, respectively. There are many different oxidizing agents and processes for the removal of iron and manganese. The best process is often dependent on the existing water conditions and the desired finished water quality. It is important that the iron and manganese reaction is completed between the soluble state to the insoluble state prior to the filters to insure that precipitation takes place in the filter media and not in the I.M.S® Media Retainers.

3.0 MAINTENANCE

<u>CAUTION:</u> FAILURE TO FOLLOW PROPER MAINTENANCE PROCEDURES, INSTRUCTIONS, RECOMMENDATIONS AND CAUTIONS MAY VOID THE MANUFACTURER'S WARRANTY.

3.1. GENERAL

Periodically, it is a good practice to observe the filter during backwash to check for any large boils. Likewise, it is a good practice to observe the surface of the filter media following a filter run by draining the water below the media surface and to examine it for any depressions or

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mounding. These could be indications of possible problems with underdrain or I.M.S® Cap seals.

In most cases, no periodic maintenance of the underdrain or I.M.S® Media Retainers is required. However, at any time the filter is taken out of service and media is removed, the underdrain and I.M.S® Media Retainer should be checked as noted below.

3.2 UNDERDRAIN

1. Make certain that the tops of all underdrain blocks are at about the same elevation. Any underdrain blocks that are significantly higher than others may be associated with a separation failure.

2. Check grout between laterals and at filter wall for deterioration or separation from the side walls of underdrain. Repair/replace as necessary.

3. Test bare underdrain as described in Section 4 of this O&M manual. Check for boils or large areas that show no air flow.

3.3 I.M.S® Media Retainer

1. Inspection

   It is important that the I.M.S Media Retainer is inspected during regular media change out procedures. Inspection should include, but not be limited to; pore openings not clogged, screws secure and sealant intact. Should you require support from a qualified Xylem Service Representative for such inspections, please contact the Xylem Service Manager at 724-452-6300.

2. Cleaning--General

   It may be necessary, after periods of unoptimized operation or process upsets, to clean the I.M.S Media Retainer of biological growth, scale or chemical fouling. Due to an unknown cause of the deposition, testing may need to be conducted to determine the best cleaning chemical.

   a. In order to determine the chemical that most efficiently removes the deposition, testing must be performed on a sample of the material to be cleaned. Some chemicals that should be tested are hydrochloric, sulfuric, muriatic, acetic or citric acid, sodium hydroxide, sodium hexametaphospahte, salt, chlorine, and hydrogen peroxide. There are also a great many proprietary-cleaning

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chemicals that could be tested if deemed necessary. Use the minimum percentage of cleaning chemical required to remove the deposits.

CAUTION: THERE ARE HAZARDS WITH USING MOST CHEMICALS AND APPROPRIATE PRECAUTIONS MUST BE FOLLOWED.

b. Blue Earth Labs is one company that has NSF certified chemicals that have shown success in cleaning both organic and inorganic materials.

3. Cleaning I.M.S® Media Retainers without Media

Once the optimum cleaning chemical has been identified, the filter I.M.S Media Retainers should be cleaned with the following procedure.

a. All filter media should be removed from the filter.

b. Using the pressure testing procedure given in Section 1.0 for I.M.S Media Retainers monitoring note or perform test to get the most recent data prior to cleaning the caps.

c. Drain the water level in the filter to just below the I.M.S Media Retainers.

d. Apply the cleaning solution with a spraying apparatus, at the desired strength or as determined by testing, to the top of the I.M.S Media Retainers. Make several passes with the sprayer to make sure all surfaces received the chemical.

CAUTION: OXYGEN LEVEL IN THE FILTER BUILDING SHOULD BE MONITORED FOR SAFETY.

e. Let the cleaning solution soak the I.M.S Media Retainer for approximately one (1) hour.

f. Do not drain any water or chemical from the underdrain. Backwash thoroughly, slowly at first. Some foaming may occur. Record the pressure at the filter inlet during backwash at same backwash rate for initial pressure check. There should be a marked pressure reduction if there was significant fouling of the I.M.S Media Retainers.

g. Repeat cleaning as necessary.

4. Cleaning I.M.S® Media Retainers with Media *

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Once the optimum cleaning chemical has been identified, the filter I.M.S Media Retainers should be cleaned with the following procedure.

a. Using the pressure testing procedure given in Section 1.0 for I.M.S Media Retainers monitoring note or perform test to get the most recent data prior to cleaning the retainers.

b. Drain the water in the filter and flume (lower gullet).

c. Inject the cleaning solution with backwash water at predetermined concentration. The backwash flow rate should be no greater than 5 gpm/sf and the total quantity should be figured or the level monitored at top of underdrain to determine when to stop the backwash water.

   CAUTION: OXYGEN LEVEL IN THE FILTER BUILDING SHOULD BE MONITORED FOR SAFETY.

d. Let the cleaning solution soak the I.M.S® Media Retainer for at least eight (8) hours

e. Drain the cleaning solution to waste.

f. Backwash thoroughly, slowly at first. Some foaming may occur.

g. Using one of the procedures given in Section 1.0 for I.M.S® Media Retainer monitoring perform test to determine effectiveness of cleaning the caps

h. Repeat cleaning as necessary.

4.0 TESTING

4.1 Hydraulic (Water) Testing

After inspection and making any repairs, test the underdrain by backwashing with water. If any assistance is needed for inspection or repairs, contact the Xylem Service Manager.

1. Using clean disinfected water, the filter should be filled through the backwash piping at a slow rate of approximately 2 GPM/SF.
2. Continue filling with backwash water until the water level is about 6" above the underdrain.

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3. Stop filling and drain the filter until the water level just falls below top of underdrain, i.e. the water can't be seen.

4. Start filling again at about a 5 GPM/SF rate, when the water can be seen above the underdrain, over a period of about 1 minute, slowly increase the backwash rate to 15-20 GPM/SF and observe the water pattern from the top of the underdrain. As the water is rising, look for localized turbulence or boils. The pattern should be reasonably uniform over the entire filter surface. If in doubt, repeat procedure.

5. If the pattern remains uneven, lower water level and check I.M.S® Media Retainer and block joints. Repair as necessary and repeat the test.

4.2 Air Testing

For those filter systems employing air scour to assist during backwash, it is necessary to test the underdrain for a proper air pattern. This should only be accomplished after successfully completing a hydraulic test.

1. Fill the empty filter through the backwash system to a water level 4”-6" above the top of the bare underdrain.

2. Positive displacement blowers will use a vent valve, while centrifugal blowers may use an in-line throttling valve. Start a positive displacement blower with the vent valve open. Start a centrifugal blower with the throttling valve closed. Start the blower and open the air isolation (inlet) valve on the filter.

   NOTE: Adjust the rate control valve slowly to obtain the design air flow rate. Adjust rate of flow from no flow to design flow over a period of approximately 60 seconds. Never start the blower so that its full capacity is delivered to the filter immediately.

3. Check the air pattern in the filter. It should be reasonably uniform over the entire surface.

4. If dead spots or rows are noticed, try adjusting the air rate (up to down) to obtain a better pattern.

5. If certain areas show excessive air shut down the blower, drain the filter and examine the underdrain for punctures, bad joints, or loose end plates.

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NOTE: If structural damage to the plastic underdrain or misaligned internal joints are found, it may be necessary to do a fusion weld repair. Contact the Xylem Service Manager for assistance at 724-452-6300.

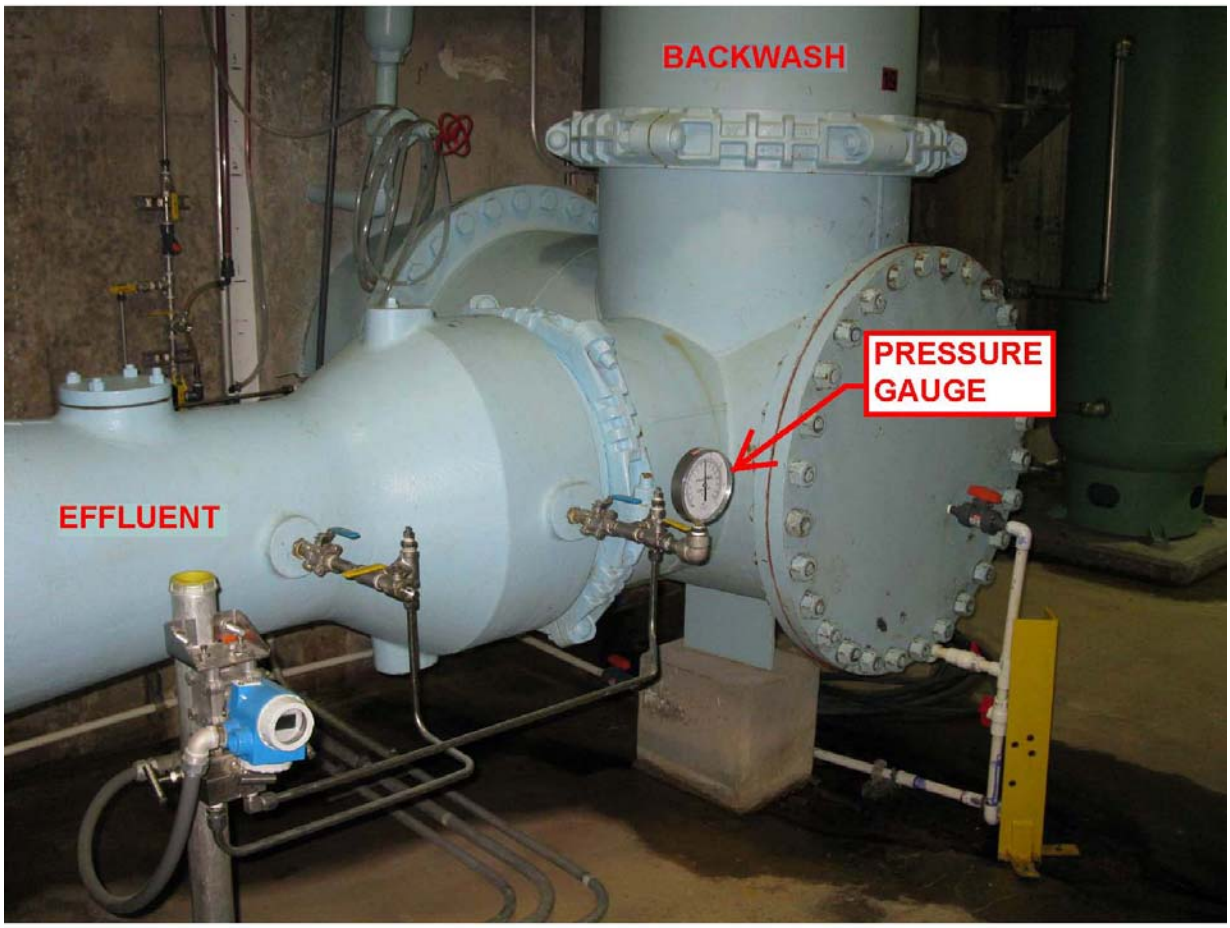
* Patent pending.

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The I.M.S® Media Retainer is a filter media barrier that is used to replace a portion or all of the support gravel in a filter system. Leopold recommends a monitoring program be in-place to assess the headloss across the media retainer and filter system. The goal of monitoring is to determine whether the headloss across the media retainer is increasing over time. The following is our suggested method for measuring headloss.

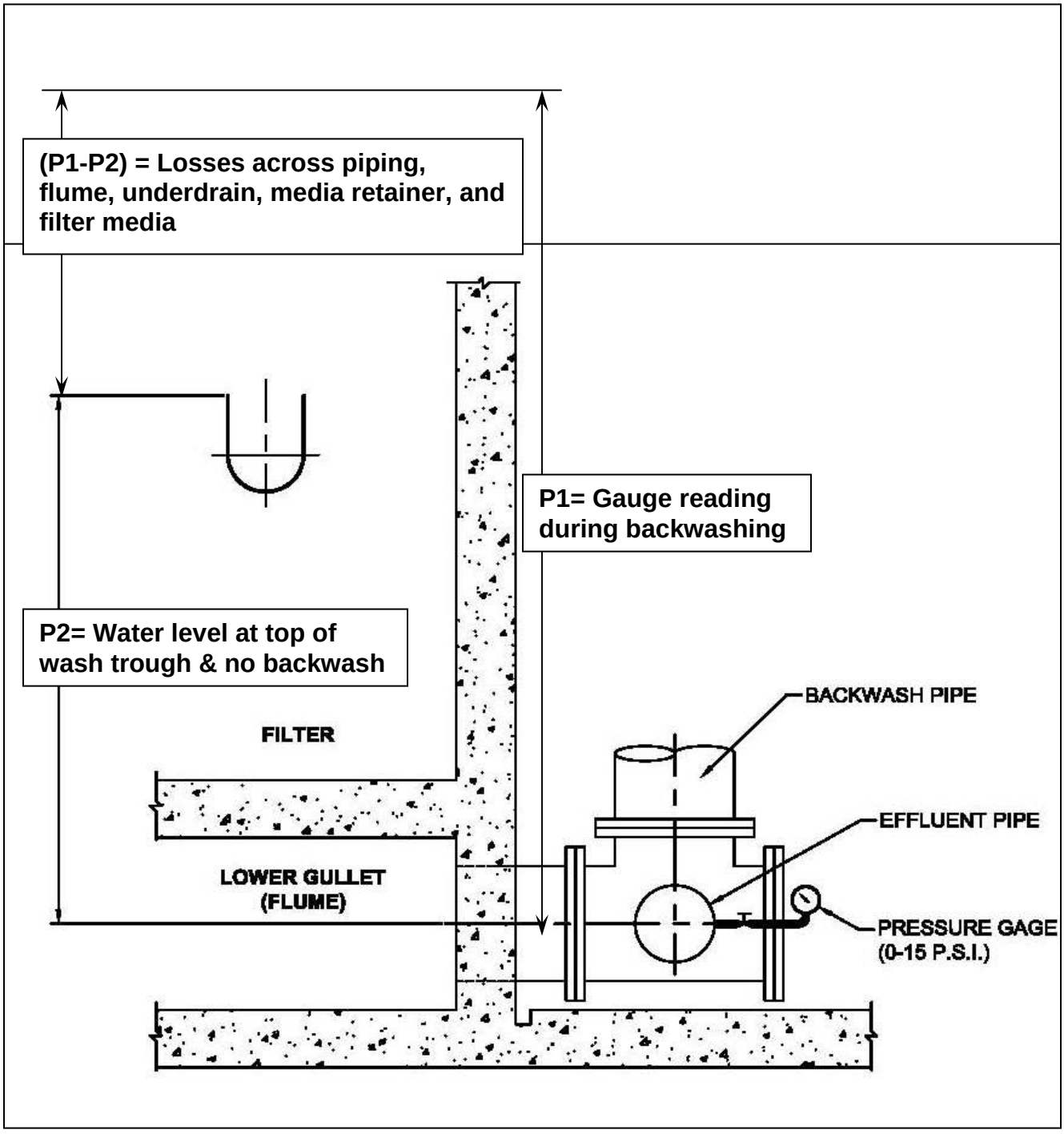
Measure the headloss across each filter in the filter system on a monthly basis. The filters being monitored should stay consistent to provide a baseline of performance. Pressure readings should always be taken at the same backwash rate for comparison. This may involve individual pressure gauges or sensors near each filter backwash inlet or a single pressure gauge or sensor located on a common backwash header for all the filters.

Headloss testing should be done in the backwash mode using a pressure gauge with a scale maximum reading of 30 psi located near the backwash inlet to the filter bottom. The pressure reading P1 should be recorded along with the backwash rate during backwashing. The static pressure P2 should be read on the gauge when the water level is at the top of wash troughs at the end of the backwash. The difference is the headloss (P1 – P2) across the filter underdrain system and filter media. See table at end for recording the information.



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If there is a change of 2 psi or greater in total backwash system head loss, from the baseline filter condition Leopold should be contacted at (724) 452-6300.



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Site contact:_____

Phone: _____

Email: _____

FILTER NO.					
FILTER BACKWASH PRESSURE READINGS					
READING NO.	FILTER NO.	DATE MM-DD-YY	BACKWASH RATE MGD OR GPM	BACKWASH PRESSURE, P1---PSIG	STATIC WATER PRESSURE, P2---PSIG
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					

NOTES:

1. Record pressure reading at least once every month on each filter.
2. If pressure readings increase by more than 2 psi from baseline pressure for a consistent maximum backwash rate, then remedial action should be considered. For assistance please contact:

Xylem
227 South Division Street
Zelienople, PA 16063 USA
Phone: (724) 452-6300
Fax: (724) 452-1377
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SUGGESTED PRESSURE GAUGE

2-1/2" WIKA Pressure Gauges with Maximum-Pressure Hand

- **Built-in maximum-pressure hand indicates maximum pressure of your process**
- **Use to monitor potential system pressure surges**



These pressure gauges feature a maximum-pressure hand which indicates peak process pressure, helping you monitor system pressure surges. Suitable for any medium that does not clog the connection port or corrode brass. Other pressure ranges are available; contact USABlueBook for more information.

Accuracy:	±2/1/2%
Wetted materials:	brass
Case material:	stainless steel
Process connection:	1/4" NPT(M), lower mount
Dial size:	2 1/2"
Pointer:	aluminum, adjustable

USA BlueBook Stock No. 12543

USABlueBook
Phone: 800-548-1234
Fax: 847-689-3030
Website: www.usabluebook.com

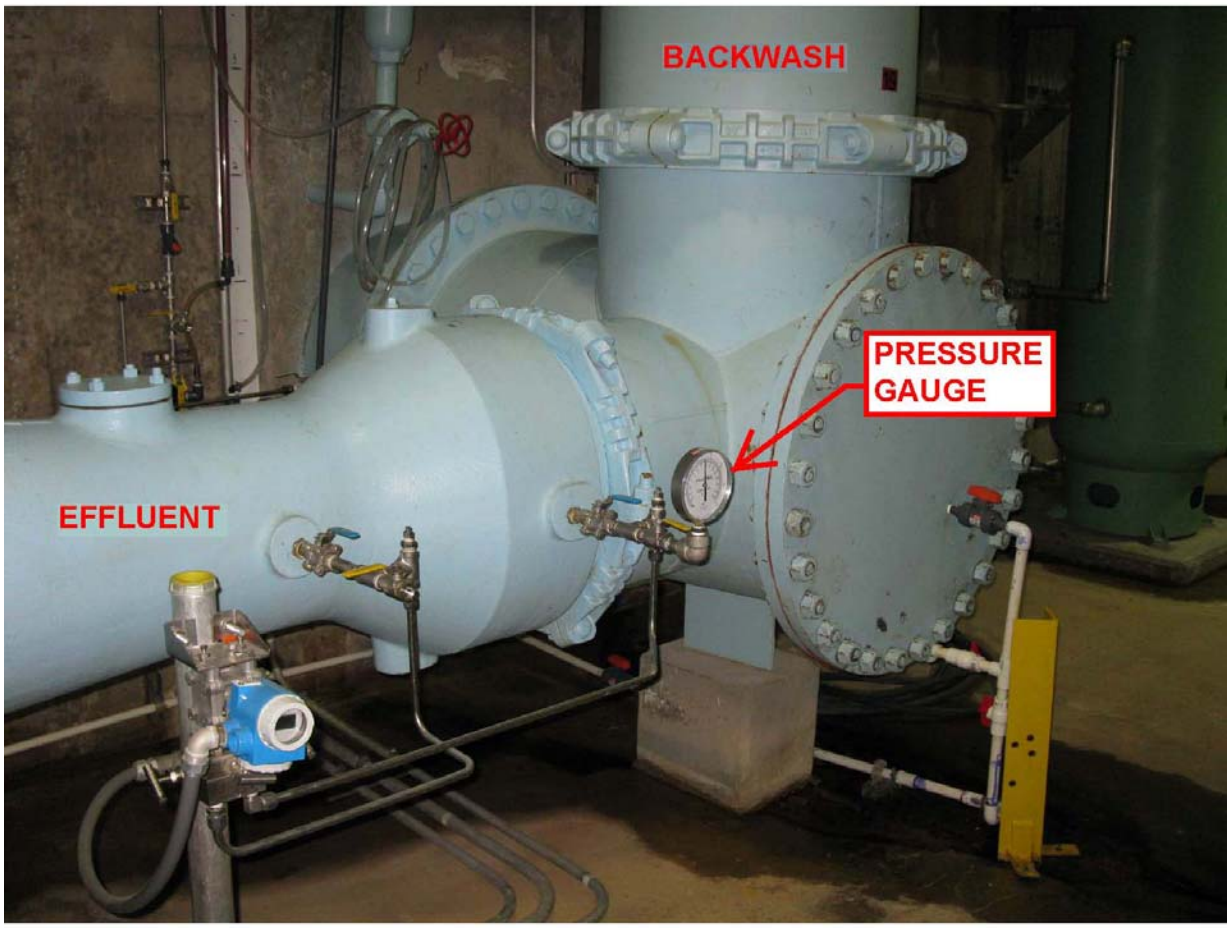
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11 IMS Monitoring Instructions

The I.M.S® Media Retainer is a filter media barrier that is used to replace a portion or all of the support gravel in a filter system. Leopold recommends a monitoring program be in-place to assess the headloss across the media retainer and filter system. The goal of monitoring is to determine whether the headloss across the media retainer is increasing over time. The following is our suggested method for measuring headloss.

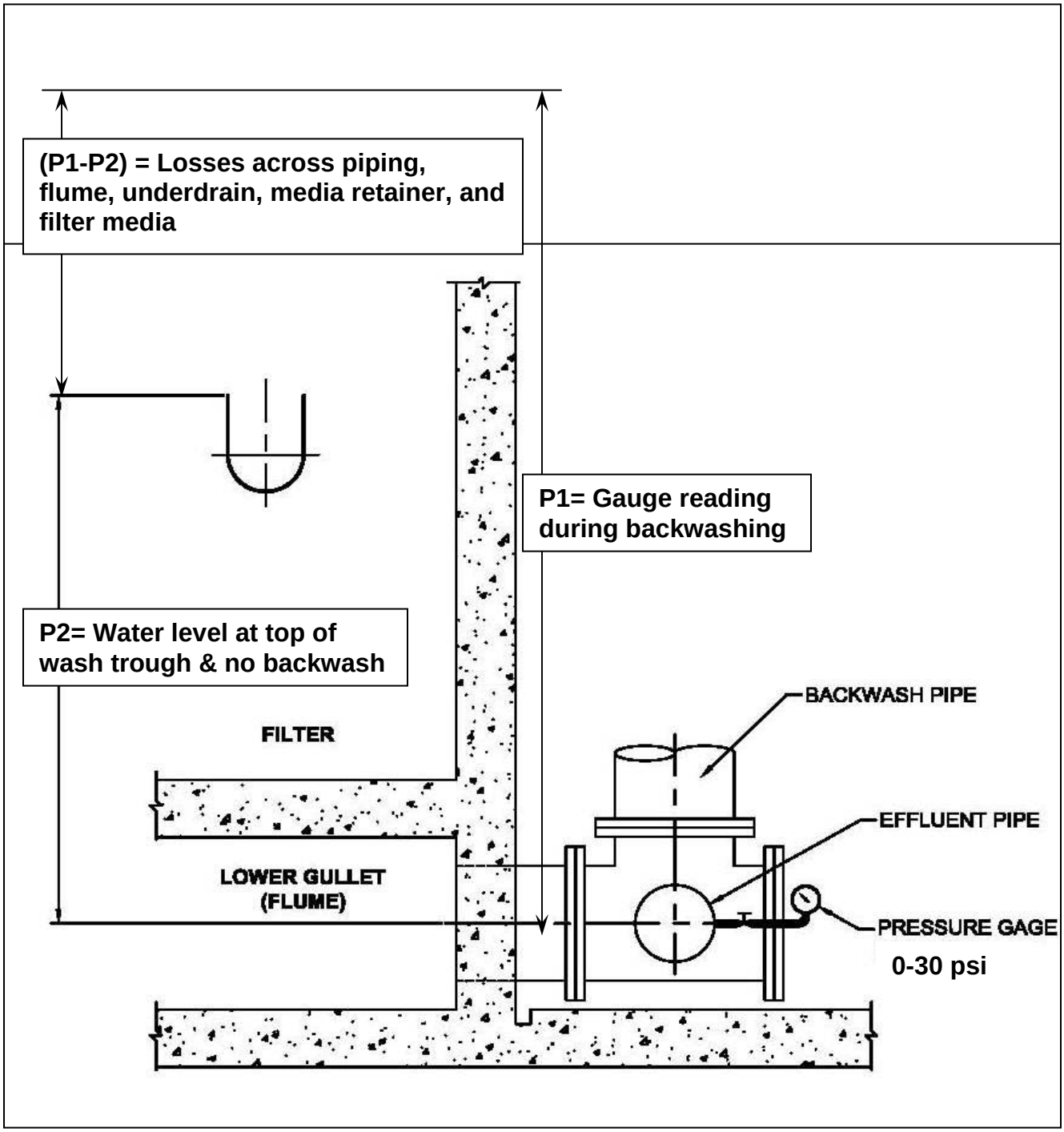
Measure the headloss across each filter in the filter system on a monthly basis. The filters being monitored should stay consistent to provide a baseline of performance. Pressure readings should always be taken at the same backwash rate for comparison. This may involve individual pressure gauges or sensors near each filter backwash inlet or a single pressure gauge or sensor located on a common backwash header for all the filters.

Headloss testing should be done in the backwash mode using a pressure gauge with a scale maximum reading of 30 psi located near the backwash inlet to the filter bottom. The pressure reading P1 should be recorded along with the backwash rate during backwashing. The static pressure P2 should be read on the gauge when the water level is at the top of wash troughs at the end of the backwash. The difference is the headloss (P1 – P2) across the filter underdrain system and filter media. See table at end for recording the information.



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If there is a change of 2 psi or greater in total backwash system head loss, from the baseline filter condition Leopold should be contacted at (724) 452-6300.



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Site contact:_____

Phone: _____

Email: _____

FILTER NO.					
FILTER BACKWASH PRESSURE READINGS					
READING NO.	FILTER NO.	DATE MM-DD-YY	BACKWASH RATE MGD OR GPM	BACKWASH PRESSURE, P1---PSIG	STATIC WATER PRESSURE, P2---PSIG
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
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NOTES:

1. Record pressure reading at least once every month on each filter.
2. If pressure readings increase by more than 2 psi from baseline pressure for a consistent maximum backwash rate, then remedial action should be considered. For assistance please contact:

Xylem
227 South Division Street
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SUGGESTED PRESSURE GAUGE

2-1/2" WIKA Pressure Gauges with Maximum-Pressure Hand

- **Built-in maximum-pressure hand indicates maximum pressure of your process**
- **Use to monitor potential system pressure surges**



These pressure gauges feature a maximum-pressure hand which indicates peak process pressure, helping you monitor system pressure surges. Suitable for any medium that does not clog the connection port or corrode brass. Other pressure ranges are available; contact USABlueBook for more information.

Accuracy:	±2/1/2%
Wetted materials:	brass
Case material:	stainless steel
Process connection:	1/4" NPT(M), lower mount
Dial size:	2 1/2"
Pointer:	aluminum, adjustable

USA BlueBook Stock No. 12543

USABlueBook
Phone: 800-548-1234
Fax: 847-689-3030
Website: www.usabluebook.com

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APPENDIX C - LEOPOLD TYPE S UNDERDRAIN & IMS CAP BROCHURE



Leopold® Type S® Technology Underdrain

PART OF A COMPLETE LEOPOLD WATER OR WASTEWATER FILTER SYSTEM

LEOPOLD
a xylem brand

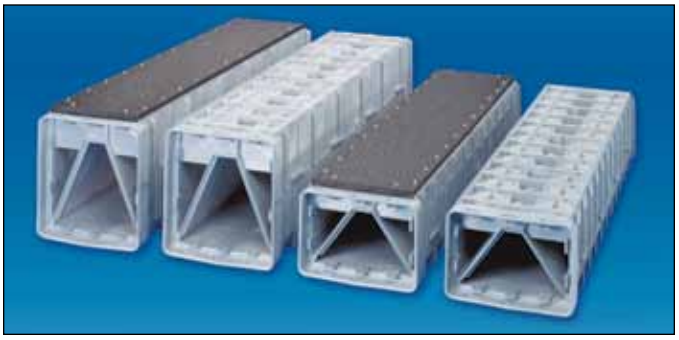
Type S Technology Underdrain
Benefit from the Advantages – Only from Leopold

Improved Underdrain Performance for Superior Results

Because the upward flow of air through an underdrain creates low-pressure zones in the underdrain, some orifices can become starved for flow . . . or even reverse flow. Leopold has designed a water recovery channel into its Type S® Technology Underdrain to help ensure uniform and continuous airflow from all of the top deck orifices. The water recovery channel is designed to allow water to re-enter the underdrain to equalize the low-pressure areas. This dramatically improves the performance of the underdrain and provides superior results, particularly with the dual lateral design.

The results of Type S technology are real:

- Broader airflow range, now 1 to 5 scfm/sf.
- Improved air stability under all operating conditions with all orifices providing uniform and continuous airflow.
- Lower water maldistribution — less than 5 percent (total).



There's a Leopold Type S Technology Underdrain available for every filter design, making it the only truly "universal" underdrain.



Leopold Type S Technology Underdrain features a unique water recovery channel for superior air scouring and water backwash performance.

Cleans the Media Better

All Leopold Type S Technology Underdrains feature closely spaced, non-clogging orifices for uniform distribution of air and/or water backwash. This does more than promote trouble-free operation. It cleans the media better.

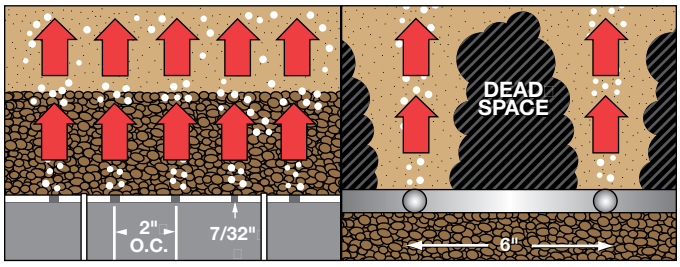
With other underdrain designs whose orifices are more widely spaced, dead zones can occur. This means the air does not reach and scour the media. The closely spaced orifices of Leopold Type S Technology Underdrain prevent the formation of dead spaces. As a result, all the media is exposed to the cleaning action of the air with Type S Technology Underdrain.

Collapse Pulse Cleaning, Regardless of Media Configuration

The wide, uniform air distribution of Leopold Type S Technology Underdrain enables various media configurations to benefit from collapse pulse cleaning during a concurrent backwash. Other underdrains limit the air flow rates. This can limit or even eliminate the possibility of collapse pulse cleaning.



Better air scour action – and better media cleaning – is the result of closely spaced, non-clogging orifices and uniform distribution of air throughout the length of the underdrain lateral.



The closely spaced, non-clogging orifices designed into Leopold Type S Technology Underdrain (left) provide uniform distribution of air and/or water backwash for trouble-free operation. With orifices widely spaced, dead spaces and inefficient cleaning of the media can occur.

More Forgiving Level Tolerances

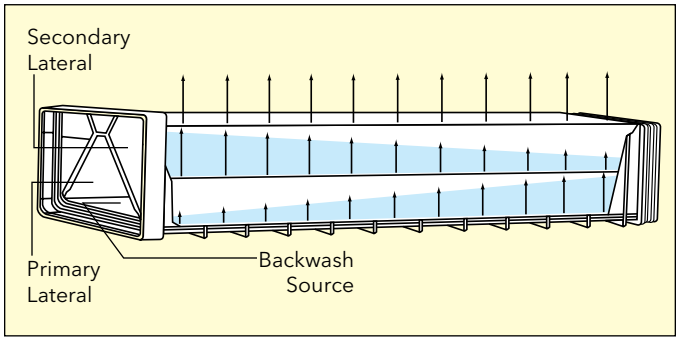
Older underdrain required a levelness of ±1/8 inch. Type S Technology Underdrain with internal baffles for reduced level sensitivity can be installed to a level tolerance of ±1/4 inch, which is more forgiving in existing, older installations where the construction tolerances were not as rigid.

Cost-Saving Installation and Operation

More forgiving installation tolerances means simpler instal-lation. This means lower filter construction costs. Improved filter performance means cleaner water and longer runs between backwashing. And this means lower operating costs per gallon of water filtered.



Installation is easier with Type S Technology Underdrain because blocks can be set to level ±1/4 inch (left). Assembly of laterals is easier because the blocks simply snap together to form leak-resistant, distribution efficient laterals (right).

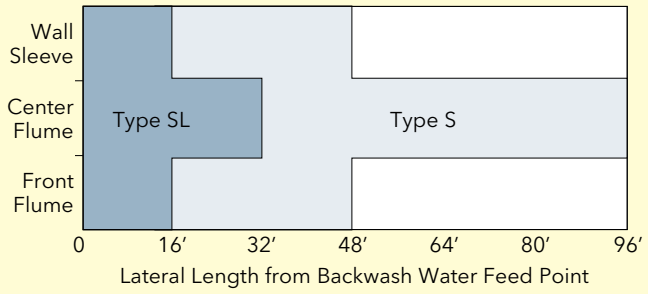


The dual lateral design pioneered by Leopold ensures uniform distribution of both water and air at each dispersion orifice opening even in extra long lengths – up to 100 feet in a center flume filter installation. Because more water and air flow through the openings in a lateral that are farthest from the source, discharge variances exist along the length of the primary feeder laterals. Any unbalanced flow from the feeder laterals creates an opposing flow, forming a directly compensating lateral into a uniform pressure condition throughout its length.

There's a Leopold® Type S® Technology Underdrain for Every Filter Design

Leopold® Universal® Type S® Underdrain is ideal for installations requiring longer laterals. Leopold Universal Type SL® Underdrain features a lower profile (it's 4 inches lower) making it ideal for shallow filters where greater filter media depth is desired. Both feature Type S Technology developed by Leopold for superior air scouring and water backwash performance. With Type S Technology available for every filter design, only Leopold offers a truly "universal" underdrain.

Leopold Type S Technology Underdrain Applications Guide (Air/Water Backwash)



Filter Applications for Leopold Universal Type S Technology Underdrain

- Turbidity (Solids) Removal
- Lime Softening
- Iron/Manganese Removal
- Wastewater Treatment Solids Removal
- Denitrification
- Any Water or Wastewater Treatment Process

More Features of Leopold Universal Type S and Type SL Underdrain

- 75 years of proven dual lateral design pioneered by Leopold
- Light weight for easy handling
- High-density polyethylene (HDPE) construction for strength and corrosion resistance
- Smooth surface for reducing the potential for calcification

Leopold® IMS® Cap Eliminates the Need for Support Gravel

The Leopold Universal Type S and Type SL Underdrain can be specified with Leopold IMS (integral media support) cap factory-installed on the top of the underdrain block.

Another filter technology innovation pioneered by Leopold, the IMS cap was developed by Leopold as a replacement for support gravel in filters equipped with Leopold dual lateral underdrain. By eliminating the support gravel, the overall depth of the filter can be reduced which could also allow for deeper media in existing filters. In addition, Leopold IMS cap allows for easy removal and change of media such as activated carbon.

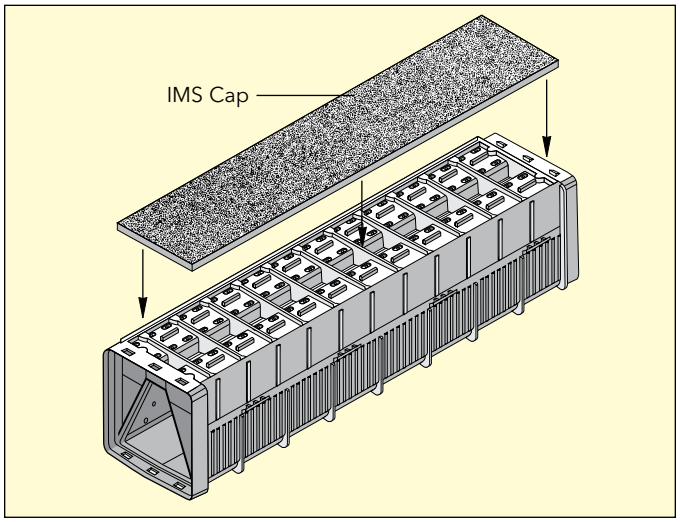
Put the Leopold Filter System Advantage to Work for You

Leopold has assembled an array of technologies giving us the capability of engineering and delivering a complete filter system for virtually any filter design, virtually any performance requirements. Leopold Type S Technology Underdrain is just one of those technologies. When Leopold supplies Type S Technology Underdrain as part of a complete Leopold filter package, we can assure guaranteed filter performance and process results.

Pace-setting filter technologies. More than 75 years of filter process knowledge, experience, and expertise. Unparalleled support. All for assured guaranteed filter performance and process results. This is the Leopold filter system advantage.

Leopold Universal Type S Technology Underdrain Technical Specifications

	Type S	Type SL
Material:	High-Density Polyethylene (HDPE)	High-Density Polyethylene (HDPE)
Size:	Length - 48" (Nominal) Width - 11" (Nominal) Height - 12" (Nominal)	Length - 48" (Nominal) Width - 11" (Nominal) Height - 8" (Nominal)
Weight:	25 lb (approx)	19 lb (approx)



The Benefits of Leopold IMS Cap

- Eliminates support gravel
- Light weight
- Easy change to deeper media or carbon
- Proven flow distribution
- Removable for inspection
- Compatible with water treatment chemicals

Insure quality, specify Leopold as your single source for:

- Filter Equipment
- Fiber Glass Products
- Filter Controls
- Instrumentation
- Clarification
- Dissolved Air Flotation
- Membrane Filtration
- Filter Media
- Filter Rehabilitation

xylem
Let's Solve Water

Xylem, Inc.
227 South Division Street
Zelienople, PA 16063
Telephone: (724) 452-6300
Fax: (724) 452-1377
www.xyleminc.com

NSF Certified to NSF/ANSI 61

Leopold is a brand of Xylem. For the latest version of this document and more information about Leopold products visit www.fbleopold.com
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xylem
Treatment Solutions



I.M.S® 200 and I.M.S 1000 media retainers

I.M.S 200 and I.M.S 1000 media retainers from Leopold® – designed to improve the efficiency and reliability of both water and wastewater filtration systems.



Providing a more effective option than gravel, these next generation media retainers are carefully engineered to enhance the superior performance and worry-free operation of the Leopold underdrain system. The I.M.S 200 and I.M.S 1000 media retainers increase flexibility in media design by replacing up to 35 cm (14") of support gravel, increasing the available room in the filter for additional media depth or increased filter freeboard.

Choose the right media retainer for your application – the Leopold tradition of engineering excellence comes standard with both.

The I.M.S media retainers are engineered to ensure a highly uniform distribution of air and water during the backwashing process. Thanks to their solid-construction of high strength thermoplastic and precision engineered injection molded slots, these media retainers eliminate deadspaces and provide longer filter runs reducing overall operating costs.

LEOPOLD
a xylem brand

I.M.S® 200 and I.M.S 1000 PRECISION ENGINEERED MEDIA RETAINERS

Performance, flexibility, reliability and affordability. What more could you ask for?

Beyond the exceptional efficiency, the I.M.S media retainers deliver benefits including lower capital expenditures related to ease of installation and small vertical footprint, reduced operational expenses due to longer filter runs using less water and energy, and performance over an extended period of time.

I.M.S 200 features

Suitable for drinking water plants, water reuse applications, GAC contractors, biologically active filters, and desalination pretreatment

Engineered slots support media down to 400 microns to prevent sand and media penetration and make it easier to quality control your water treatment system

I.M.S 1000 features

Suitable for wastewater plants; in GAC contractors, in biologically active filters, and in the construction of filters for denitrification

Engineered slots support media down to 1700 microns and is less prone to fouling than a porous plate since biological growth will not bridge a gap

Features of both I.M.S 200 & I.M.S 1000

Increases freeboard 28 cm - 35 cm (11"–14") to allow for media expansion and extended concurrent air/water backwashing

Reduces vertical footprint 28 cm - 35 cm (11"–14") by eliminating the gravel layer

Improves air and water distribution and media expansion for better backwashing and cleaner media

Increases driving head for longer filter runs

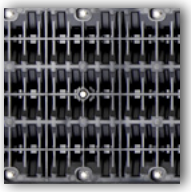
Creates a narrow water path to make the system easier to clean during standard backwash operations

Reduces installation time and can be removed, inspected, and reinstalled in the field

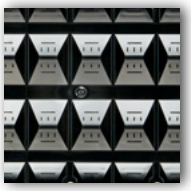
Withstands pressures up to 15 psi due to reduced flexing and the rigid design

Eliminates gravel migration or gravel disturbances caused by unforeseen events

Every I.M.S media retainer is 100% dimensionally inspected via an automated vision system with the capability of detecting anomalies as small as 10 microns in size



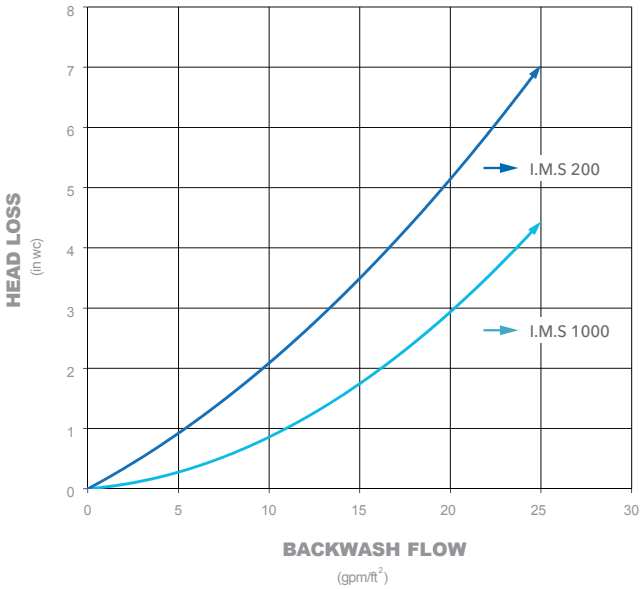
I.M.S 200



I.M.S 1000



Head loss during backwash is similar to the gravel it replaces



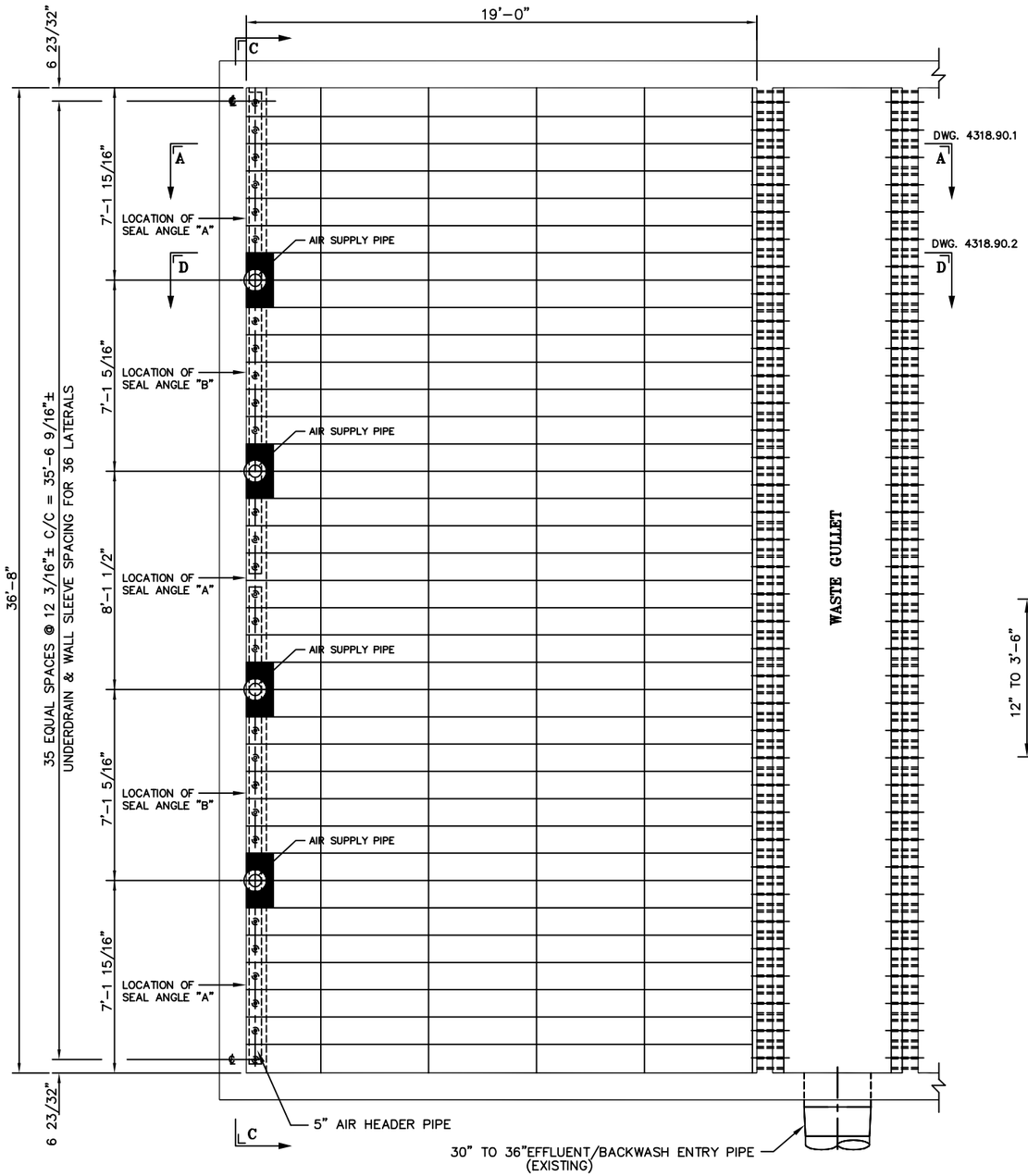
xylem
Let's Solve Water

Xylem, Inc.
4828 Parkway Plaza Blvd.
Suite 200
Charlotte, NC 28217
Tel 704.409.9700
Fax 704.295.9080

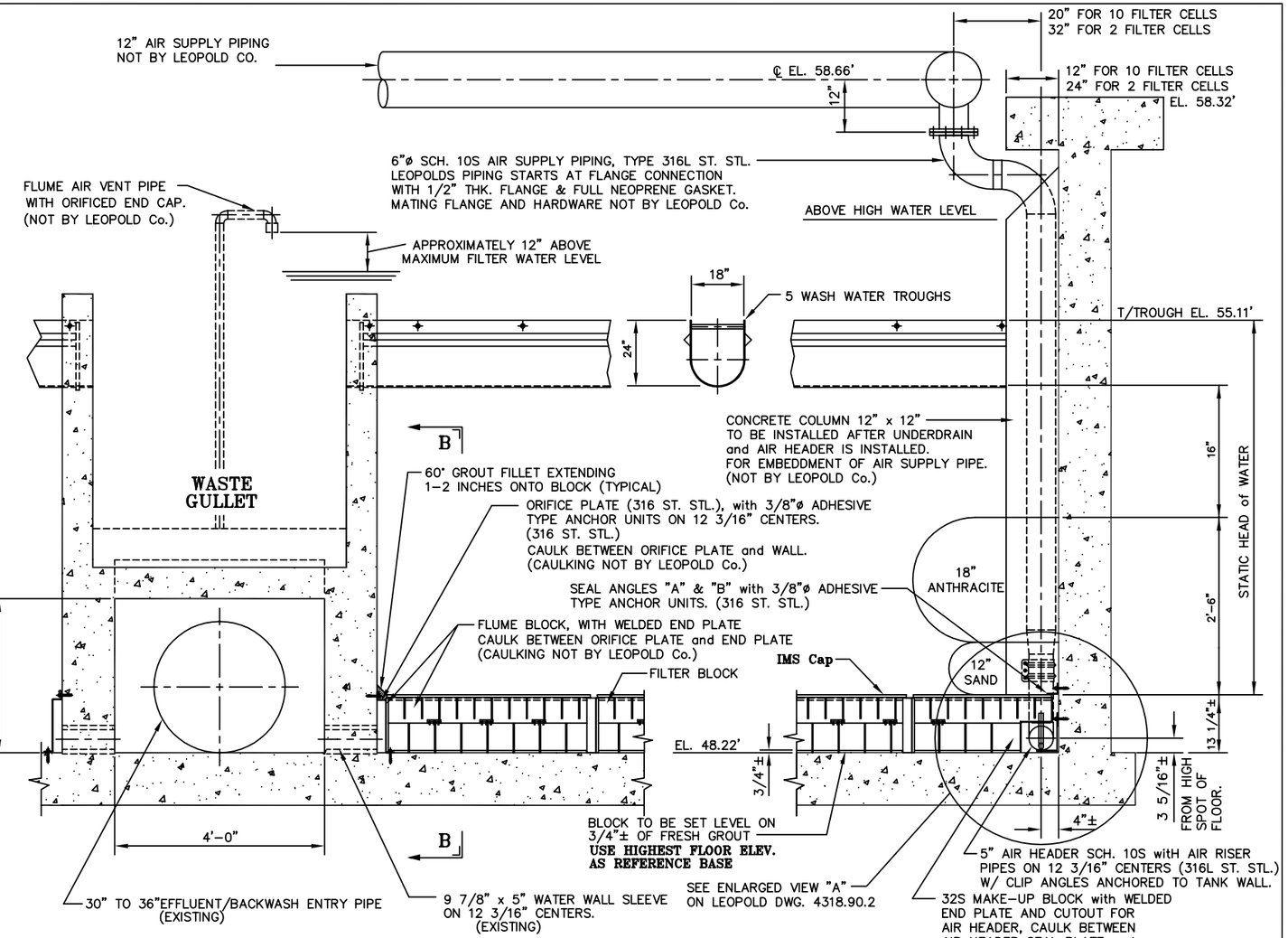
www.xylem.com

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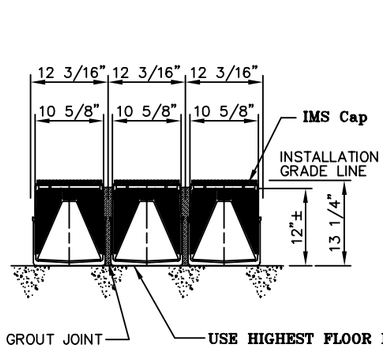
APPENDIX D - DRAWING OF EXISTING FILTER ARRANGEMENT



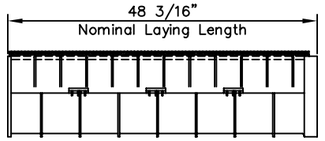
PLAN VIEW
12 FILTER CELLS REQUIRED



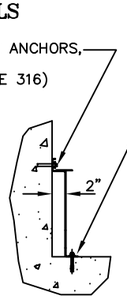
SECTION A-A
TYPICAL FOR 28 LATERALS

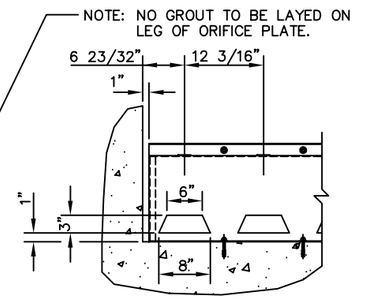


SECTION B-B



Wall Flume Block





ORIFICE PLATE TO BE SET LEVEL USING THE HIGHEST FLOOR ELEVATION AS A REFERENCE BASE. FILL GROUT UNDER ORIFICE PLATE AS REQUIRED. ALL JOINTS TO BE FIELD WELDED AFTER INSTALLATION.

NOTES

1. FILTER DESIGN BASED ON THE FOLLOWING FLOW RATES:
   HIGH RATE BACKWASH – 20 GPM/SQ.FT.
   AIR SCOUR – 5 SCFM/SQ.FT.
   CONCURRENT AIR/WATER – 5 SCFM/5 GPM PER SQ.FT.
2. AIR PRESSURE REQUIRED AT AIR HEADER INLET, (INCLUDES AIR HEADER, UNDERDRAIN & STATIC HEAD of WATER): 4.06 PSI
3. SEE DATA SHEET TSU-PE-2 FOR MATERIAL AND INSTALLATION NOTES
4. FOR UNDERDRAIN BILL OF MATERIALS, SEE DWG. 4318.60.1
5. ALL MOUNTING BRACKETS TO BE STAINLESS, TYPE 316 AND ALL HARDWARE TO BE STAINLESS STEEL, TYPE 316.
6. ENGINEER AND/OR CONTRACTOR TO VERIFY ALL DIMENSIONS AT APPROVAL.
7. DIMENSIONS AND OTHER INFORMATION PRESENTED ON THIS DRAWING REPRESENT LEOPOLD'S INTERPRETATION OF THE PROJECT REQUIREMENTS BASED UPON THE PLANS AND SPECIFICATIONS PREPARED BY OTHERS. LEOPOLD HAS NOT AND WILL NOT MAKE ANY SITE SURVEY AND WE EXPECT THE PURCHASER TO VERIFY ALL MEASUREMENTS SHOWN, PROVIDE NEW INFORMATION WHERE REQUESTED, AND ADVISE US OF ANY CONDITIONS NOT HERETOFORE DISCLOSED, THAT WILL IMPACT THE DESIGN OR OPERATION OF OUR EQUIPMENT. LEOPOLD WILL ASSUME NO RESPONSIBILITY FOR ANY COSTS ASSOCIATED WITH EXTRA WORK NECESSITATED BY UNDISCLOSED CONDITIONS.
9. EXISTING FILTER FLOOR:
   CHECK FLOOR FOR ROUGHNESS. IF SURFACE IS TOO SMOOTH, THEN ALTERNATIVE REQUIREMENTS MAY BE NECESSARY.

NSF Certified to ANSI/NSF 61

UNDERDRAIN BLOCK
MEDIA: GRAVEL SAND GARNET CARBON ANTHRACITE

IMS® Cap
FIBERGLASS PRODUCTS
STAINLESS STEEL PRODUCTS

THIS DRAWING IS SENT TO YOU SUBJECT TO RETURN UPON DEMAND, AND WITH THE UNDERSTANDING THAT IT IS NOT TO BE REPRODUCED, COPIED OR USED DIRECTLY OR INDIRECTLY, IN ANY WAY DETRIMENTAL TO OUR INTERESTS. ALL PATENT RIGHTS RESERVED.

REVISION
1 PER CH2MHILL 1-6-04 RCK
2 FLOOR ELEVATION 3-18-04 RCK
3 PIPE LOCATIONS 5-5-04 RCK

UNIVERSAL® TYPE S™ UNDERDRAIN with IMS Cap H-FLUME FILTER ARRANGEMENT
COCOA, FL M3-4318-L

LEOPOLD WATER & WASTEWATER PRODUCTS
227 S. DIVISION STREET ZELIENOPLE, PA 16063-1313

DRAWN BY	CHECKED BY	DATE	SCALE	DWG NO
RCK	AJT	OCT. 03	NONE	4318.90.1 R3

Purchasing
65 Stone Street • Cocoa, FL 32922
PHONE: (321) 433-8833
EMAIL: PURCHASING@COCOAFL.ORG

February 9, 2023

Addendum 1

To the Contract Documents and Specifications:
ITB # B-23-14-COC
Dyal GW Filter # 3 IMS Cap and Media Replacement

To All Plan Holders:

The following addresses and provides clarification of the Bidding Documents and Specifications as fully and completely as if the same were fully set forth therein. Receipt of this addendum must be noted on the Receipt of Addendum(s) and Acknowledgement Form.

A. This addendum includes and addresses the following questions:

1. In the specifications for the filter media page 6 - 3.3 Filter Media 3.3.2 Specifications it list the uniformity coefficient of not more than 1.3 and the specific gravity 1.60 plus or minus 0.05. When we supplied the media in 2019 you accepted an exception to both with UC < 1.4 and SG 1.6 or more.?

   Technical Specification Modification as follows:

   3.3 Filter Media
   3.3.2 Specifications
   Dual Media of Anthracite Coal and Silica Sand for Water Filters: Clean, hard, durable particles in
   conformance with AWWA B100 modified as follows:

   Anthracite Coal:
   - Apparent specific gravity of ~~1.60 plus or minus 0.05~~. **1.65 plus or minus 0.06.**
   - Effective size 0.95 to 1.05 millimeters.
   - Mohs hardness of 2.7 or greater.
   - Uniformity coefficient not more than 1.3.
   - Essentially free of iron, sulfides, clay, shale, extraneous dirt, and excessive dust.

   Silica sand:
   - Apparent specific gravity 2.6 or greater.
   - Effective size 0.45 to 0.55 millimeters.
   - Uniformity coefficient not more than 1.50.

Media shall be delivered in bags or semi-bulk containers as defined in AWWA B100.

Modification shown in strikethrough and bold italicized font. No other changes to the technical specifications.

2. Carbonfilt media supplier wanted to know if they would be allowed to quote us or are we just sticking with Leopold-MTS? The IMS caps and associated epoxy and hardware are required to be supplied by Leopold. Their quote for these items is included in Exhibit A. The bid docs do not require a specific vendor for the media. The media must meet the technical requirements as described in Exhibit A.

3. On pg. 40 it lists Attachment "Q" Federally Required Contract Clauses for FEMA Grantees and Subgrantees-N/A. In the specs there isn't an attachment "Q". Is this required? The federal terms and conditions are not required. Please ignore the line on the submittal checklist.

B. All other Bidding/Contract Documents and Specifications remain unchanged.

Should there be additional questions or clarification needed please contact the Purchasing and Contracts Division at purchasing@cocoafl.org.

Brian Dale
Purchasing Manger
City of Cocoa

CITY OF COCOA

MASTER TABULATION SHEET

ITB B-23-14-COC

Dyal GW Filter # 3 IMS Cap and Media Replacement

Bid Tabulation: February 15, 2023

VENDOR	Base Bid	Alternate	TOTAL
BEARING POINT CONSTRUCTION, LLC	427,426.00	46,154.00	473,580.00
LAWRENCE LEE CONSTRUCTION SERVICES, INC.	659,000.00	78,000.00	737,000.00
ELENIS CONTRACTING, LLC	394,870.37	29,250.00	424,120.37

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

RESPONSE COVER PAGE

COMPANY NAME	Elenis Contracting LLC
ADDRESS	2533 Coblentz Dr Poland, OH 44514
PRIMARY CONTACT	Anargiros "Anadio" Elenis
TELEPHONE #	330-518-8765
EMAIL ADDRESS	Aelenis@eleniscontractingllc.com

SUBMITTAL CHECKLIST

[X]	SUBMITTAL REQUIREMENT / DOCUMENT
X	Original Submittal Package bound with binder clip
X	Attended Pre-Bid (if Mandatory)
X	Attachment "B" Insurance
X	Attachment "C" Addendum Acknowledgement
X	Attachment "D" Bid Security Bond (if required)
X	Attachment "E" Bid Price Schedule
X	Attachment "F" Trench Safety (if required)
X	Attachment "G" Certificate of Non-Segregated Facilities
X	Attachment "H" Drug-Free Workplace
X	Attachment "I" Conflict of Interest and Non-Collusion
X	Attachment "J" Organizational Info
X	Attachment "K" Subcontractor Participation
X	Attachment "L" References
X	Attachment "M" Truth-in-Negotiations
X	Attachment "N" Solicitation Label affixed to envelope
X	Attachment "O" Scrutinized Companies
X	Attachment "P" E-Verify Affidavit (including screenshot from website showing active account)
X	Attachment "Q" Federally Required Contract Clauses for FEMA Grantees and Subgrantees-N/A
X	Proof of Florida Registration (if required)
X	Professional License(s) (if required)
X	W9
X	Proof of Insurance
X	USB drive with electronic copy of submittal

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	**Due Date:** **02/15/2023**
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Attachment "A"

Statement of "No Bid Submittal"

If you do not intend to submit on this requirement, please complete and return this form prior to the date shown for receipt of proposals to: City of Cocoa, Purchasing & Contracts Division, 65 Stone Street, Cocoa, Florida 32922.

I/WE HAVE DECLINED TO SUBMIT A BID for the following reason(s): [Please place a check mark (✓) next to the reason(s) as applicable]

(✓)	Reason
	Bid requirements too "restrictive".
	Insufficient time to respond to the Invitation to Bid.
	We do not offer this service.
	Our schedule would not permit us to perform.
	Unable to meet requirements.
	Unable to meet insurance or bond requirements.
	Scope of Services unclear (please explain below).
	Other (please specify below).

REMARKS:

_____ _____

_____

_____

Company Name:

_____

Mailing Address:

_____

Telephone Number: _____ Fax Number: _____ E-mail Address: _____

_____ _____ FEIN: _____

Authorized Signatory Printed Name

_____ _____

Title Date

Attachment "B"
Insurance Requirements

A. Insurance. The successful Bidder/Contractor shall not commence any work in connection with an agreement until it has obtained all of the required types of insurance and has provided proof of same to the City, in the form of a certificate prior to the start of any work, nor shall the successful Bidder/Contractor allow any subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been so obtained and approved. All insurance policies shall be with insurers qualified and doing business in Florida.

B. Limits. The successful Bidder/Contractor and/or subcontractor shall maintain the types of insurance, with at a minimum the respective limits as outlined herein:

Automobile combined single limit or	$1,000,000.00
a) Automobile Bodily Injury and	$ 500,000.00
b) Automobile Property Damage	$ 500,000.00
Umbrella / Excess Liability	
a) Liability each occurrence	$1,000,000.00
b) Aggregate combined limit (policy year)	$2,000,000.00
Commercial General Liability	
a) Each Occurrence	$1,000,000.00
b) Medical Expense (Any one Person)	$ 5,000.00
c) Personal & Adv. Injury	$1,000,000.00
d) General Aggregate	$2,000,000.00
e) Products – Comp/OP AGG	$2,000,000.00
Worker's Compensation	$1,000,000.00

Worker's Compensation: Employers' liability insurance, which covers the statutory obligation for all persons, engaged in the performance of the work required hereunder with limits not less than $1,000,000.00 per occurrence. Evidence of qualified self-insurance status will suffice for this subsection. The Bidder understands and acknowledges that it shall be solely responsible for all medical and liability costs associated with an injury to itself and/or to its employees, sub-contractors, volunteers, and the like, including the costs to defend the City in the event of litigation against same.

C. City as Additional Insured. The successful Bidder/Contractor and/or subcontractor shall name the "City of Cocoa" as an Additional Insured, to the extent of the services to be provided hereunder, on all required insurance policies, and provide the City with proof of same.

D. Certificates of Insurance. The successful Bidder/Contractor and/or subcontractor shall provide the City's Purchasing & Contracts Division with a Certificate of Insurance evidencing such coverage for the duration of this Agreement. Said Certificate of Insurance shall be dated and show:

1. The name of the insured Contractor,
2. The specified job by name and job number,
3. The name of the insurer,
4. The number of the policy,
5. The effective date,
6. The termination date,
7. A statement that the insurer will mail notice to the City at least thirty (30) days prior to any material changes in the provisions or cancellation of the policy, and;
8. The Certificate Holders Box must read as follows:
   City of Cocoa
   c/o Administrative Services Director
   65 Stone Street
   Cocoa, Florida 32922

Any other wording in the Certificate Holders Box shall not be acceptable. Non-conforming certificates will be returned for correction.

***NOTE – FOR CONTRACTING PURPOSES, THE CERTIFICATE OF INSURANCE MUST BE DELIVERED TO CITY OF COCOA, PURCHASING & CONTRACTS DIVISION, 65 STONE STREET, COCOA, FLORIDA 32922**

E. Waiver. Receipt of certificates or other documentation of insurance or policies or copies of policies by the City, or by any of its representatives, which indicates less coverage than is required, does not constitute a waiver of the successful Bidder's/Contractor's obligation to fulfill the insurance requirements specified herein.

F. Subcontractors. The successful Bidder/Contractor shall ensure that any sub-contractor(s), hired to perform any of the duties contained in the Scope of Services of an Agreement, maintain the same insurance requirements set forth herein. In addition, the successful Bidder/Contractor shall maintain proof of same on file and make readily available upon request by the City.

G. Loss Deductible Clause. The City shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the successful Bidder/Contractor and/or subcontractor providing such insurance.

H. Additional Requirements. All insurance carriers shall have AM Best Rating of at least A, and a size VII or larger. The General Liability and Workers Compensation policies shall have a waiver of subrogation in favor of the City of Cocoa. The liability policies shall be Primary/Non-Contributory.

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Anargiros Elenis
AFFIANT SIGNATURE

Anargiros Elenis
Typed Name of AFFIANT

President
Title

The foregoing instrument was executed before me this 13 day of February, 2023, by Anargiros Elenis as President of Elenis Contracting LLC, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced Driver's License as identification.

NOTARY PUBLIC STATE OF OHIO

SARAH A CRAIG
Notary Public, State of Ohio
My Comm. Expires April 15, 2023
Recorded in Mahoning County

NOTARY PUBLIC
STATE OF OHIO
MY COMMISSION EXPIRES: 04/15/2023

The City reserves the unilateral right to modify the insurance requirements set forth at any time during the process of solicitation or subsequent thereto.

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Attachment "C"
Addendum Receipt Acknowledgement Certification

The undersigned acknowledges receipt of the following addenda to the solicitation document(s) (Give number and date of each):

Addendum No. 1 Dated: 2/9/23

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided in herein, is truthful and correct at the time of submission.

Bidder/Contractor Name:
Elenis Contracting LLC

Mailing Address:
2533 Coblentz Dr, Poland, OH 44514

Telephone Number: 330-518-8765 Fax Number: _____ E-mail Address: Aelenis@eleniscontractingllc.com

Anargiros Elenis
Authorized Signatory

Anargiros Elenis FEIN: 47-3959816
Printed Name

President
Title

2/15/2023
Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
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	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Attachment "D"
Bid Security Bond

BOND NO: N/A

(NOT TO BE FILLED OUT IF A CASHIER'S CHECK IS SUBMITTED)

KNOW ALL MEN BY THESE PRESENTS: That the undersigned Elenis Contracting, LLC. as Principal, and, Old Republic Surety Company as **Surety**, are held and firmly bound unto the **City of Cocoa** in the sum of 5% of the bid amount shown on the **Bid Price Schedule and Acceptance of Bid Terms and Conditions** for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

THE CONDITION OF THIS OBLIGATION is such that if Principal:

1. Does not withdraw the attached Bid Amount shown on the **Bid Price Schedule and Acceptance of Bid Terms and Conditions** for the City of Cocoa ITB B-23-14-COC titled Dyal GW Filter #3 IMS Cap and Media Replacement for a period of (180) calendar days after the date on which the bids are opened; and
2. Enters into a written Contract and furnishes the required Insurance, Certificates of Insurance and Payment and Performance Bonds with surety or sureties acceptable to the **City of Cocoa** within seven days after the date of award of the Contract, then this obligation will be void; Otherwise, the same will be in full force and the full amount of this Bid Bond will be paid to the **City of Cocoa** as stipulated herein.

Signed this 15th day of February, 2023

THE CONTRACTOR MUST INDICATE WHETHER CORPORATION, PARTNERSHIP, COMPANY, (OR INDIVIDUAL). THE PERSON SIGNING FOR THE CONTRACTOR WILL SIGN HIS/HER OWN NAME AND SIGN CORPORATE TITLE. WHEN THE PERSON SIGNING FOR A CORPORATION IS OTHER THAN THE PRESIDENT OR VICE PRESIDENT, HE/SHE MUST FURNISH A CORPORATE RESOLUTION SHOWING HIS/HER AUTHORITY TO BIND THE CORPORATION.

Contractor Name: Elenis Contracting, LLC. (Affix Contractor's Corporate Seal Above)

Mailing Address: 2533 Coblentz Dr, Poland, OH, 44514

Telephone Number: (330)518-8765 Fax Number: _____ E-mail Address: Aelenis@elenis contracting llc.com

Anargiros Elenis	Anargiros Elenis	President	2/15/23
Authorized Signatory	Printed Name	Title	Date

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023

TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement

STATE OF Ohio

COUNTY OF Mahoning

BEFORE ME, THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED Keith A. Miller, WHO, BEING DULY SWORN, DEPOSES AND SAYS THAT THEY ARE A DULY AUTHORIZED FLORIDA LICENSED INSURANCE AGENT, PROPERLY LICENSED UNDER THE LAWS OF THE STATE OF OH, TO REPRESENT Old Republic Surety Company OF 7588 Central Parke Boulevard, Suite 226, Mason, OH, 45040,

A COMPANY AUTHORIZED TO MAKE CORPORATE SURETY BONDS UNDER THE LAWS OF THE STATE OF WI (THE "SURETY").

SAID Keith A. Miller FURTHER CERTIFIES THAT AS AGENT FOR THE SAID Old Republic Surety Company THEY HAVE SIGNED THE ATTACHED BOND AS A LICENSED AGENT, IN THE SUM OF 5% OF THE BID AMOUNT SHOWN ON ATTACHMENT "F" BID PRICE SCHEDULE, ON BEHALF OF Elenis Contracting, LLC., TO THE CITY OF COCOA COVERING ITB B-23-14-COC titled Dyal GW Filter #3 IMS Cap and Media Replacement IN COCOA, FLORIDA.

NOTARIAL SEAL STATE OF OHIO

GWENDOLYN S. HARDIN
Notary Public, State of Ohio
My Commission Expires:
March 24, 2026

NOTARY PUBLIC Gwendolyn S. Hardin
Gwendolyn S. Hardin

STATE OF Ohio

MY COMMISSION EXPIRES: 3.24.2026

Surety Name: Old Republic Surety Company (Affix Surety's Corporate Seal Above)

Attorney in Fact for Signature	Printed Name of Attorney in Fact	Florida Licensed Agent Signature	Printed Name of Licensed Agent	License Surety Number
	Keith A. Miller	N/A	N/A	W289341

Surety Mailing Address: 7588 Central Parke Boulevard, Suite 226, Mason, OH, 45040

Agent Mailing Address: 3744 Starr Center Drive, Canfield, Ohio 44406

Telephone Number:

Telephone Number: 330-533-1195

Fax Number:

Fax Number: 330-702-3531

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

OLD REPUBLIC SURETY COMPANY

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That OLD REPUBLIC SURETY COMPANY, a Wisconsin stock insurance corporation, does make, constitute and appoint: KEITH A. MILLER, JAMES M. KLINGENSMITH, MARK A. ZEIDENSTEIN, BRIAN BATTAGLIA of CANFIELD, OH

its true and lawful Attorney(s)-in-Fact, with full power and authority for and on behalf of the company as surety, to execute and deliver and affix the seal of the company thereto (if a seal is required), bonds, undertakings, recognizances or other written obligations in the nature thereof, ***(other than bail bonds, bank depository bonds, mortgage deficiency bonds, mortgage guaranty bonds, guarantees of installment paper and note guaranty bonds, self-insurance workers compensation bonds guaranteeing payment of benefits, or black lung bonds),*** as follows:

ALL WRITTEN INSTRUMENTS

and to bind OLD REPUBLIC SURETY COMPANY thereby, and all of the acts of said Attorneys-in-Fact, pursuant to these presents, are ratified and confirmed. This appointment is made under and by authority of the board of directors at a special meeting held on February 18, 1982.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following resolutions adopted by the board of directors of the OLD REPUBLIC SURETY COMPANY on February 18,1982.

RESOLVED that, the president, any vice-president or assistant vice president, in conjunction with the secretary or any assistant secretary, may appoint attorneys-in-fact or agents with authority as defined or limited in the instrument evidencing the appointment in each case, for and on behalf of the company to execute and deliver and affix the seal of the company to bonds, undertakings, recognizances, and suretyship obligations of all kinds; and said officers may remove any such attorney-in-fact or agent and revoke any Power of Attorney previously granted to such person.

RESOLVED FURTHER, that any bond, undertaking, recognizance, or suretyship obligation shall be valid and binding upon the Company

(i) when signed by the president, any vice president or assistant vice president, and attested and sealed (if a seal be required) by any secretary or assistant secretary; or

(ii) when signed by the president, any vice president or assistant vice president, secretary or assistant secretary, and countersigned and sealed (if a seal be required) by a duly authorized attorney-in-fact or agent; or

(iii) when duly executed and sealed (if a seal be required) by one or more attorneys-in-fact or agents pursuant to and within the limits of the authority evidenced by the Power of Attorney issued by the company to such person or persons.

RESOLVED FURTHER that the signature of any authorized officer and the seal of the company may be affixed by facsimile to any Power of Attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the company; and such signature and seal when so used shall have the same force and effect as though manually affixed.

IN WITNESS WHEREOF, OLD REPUBLIC SURETY COMPANY has caused these presents to be signed by its proper officer, and its corporate seal to be affixed this 30th day of July, 2021.

OLD REPUBLIC SURETY COMPANY

Karen J. Haffner
Assistant Secretary

OLD REPUBLIC SURETY COMPANY CORPORATE SEAL 1981

Alan Pavlic
President

STATE OF WISCONSIN, COUNTY OF WAUKESHA - SS

On this 30th day of July, 2021, personally came before me, Alan Pavlic and Karen J Haffner, to me known to be the individuals and officers of the OLD REPUBLIC SURETY COMPANY who executed the above instrument, and they each acknowledged the execution of the same, and being by me duly sworn, did severally depose and say: that they are the said officers of the corporation aforesaid, and that the seal affixed to the above instrument is the seal of the corporation, and that said corporate seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority of the board of directors of said corporation.

KATHRYN R. PEARSON NOTARY PUBLIC STATE OF WISCONSIN

Kathryn R. Pearson
Notary Public

My Commission Expires: September 28, 2022

(Expiration of notary's commission does not invalidate this instrument)

CERTIFICATE

I, the undersigned, assistant secretary of the OLD REPUBLIC SURETY COMPANY, a Wisconsin corporation, CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolutions of the board of directors set forth in the Power of Attorney, are now in force.

27-1080

OLD REPUBLIC SURETY COMPANY CORPORATE SEAL 1981

Signed and sealed at the City of Brookfield, WI this 15th day of February, 2023.

Karen J. Haffner
Assistant Secretary

ORSC 22262 (3-06)

L. CALVIN JONES & CO.

OLD REPUBLIC SURETY COMPANY
OF BROOKFIELD, WISCONSIN

STATUTORY FINANCIAL STATEMENT AS OF DECEMBER 31, 2021

ADMITTED ASSETS

Bonds	$103,046,535
Common stocks	60,764,410
Cash and cash equivalents	2,267,629
Premiums and agents' balances in course of collection (not over 90 days)	5,098,179
Amounts recoverable from reinsurers	2,073,925
Investment income due and accrued	820,425
Current federal and foreign income tax recoverable and interest	140,153
Receivables from parent, subsidiaries and affiliates	1,841,247
TOTAL ADMITTED ASSETS	$176,052,503

LIABILITIES AND SURPLUS

Losses	$12,287,063
Loss adjustment expenses	7,097,178
Commissions payable, contingent commissions and other similar charges	3,351,027
Other expenses (excluding taxes, licenses and fees)	5,231,855
Taxes, licenses and fees (excluding federal income taxes)	562,290
Net deferred tax liability	529,973
Unearned premiums	48,101,395
Advance premium	372,163
Ceded reinsurance premiums payable (net of ceding commissions)	3,115,180
Amounts withheld or retained by company for account of others	30,121
Drafts outstanding	(460,888)
Payable to parent, subsidiaries and affiliates	19,293
Other liabilities	43,178
TOTAL LIABILITIES	$80,279,829
Common capital stock	2,900,000
Gross paid in and contributed surplus	16,534,036
Unassigned funds (surplus)	76,338,638
SURPLUS AS REGARDS POLICYHOLDERS	$95,772,674
TOTAL LIABILITIES AND SURPLUS	$176,052,503

Securities carried at $3,309,687 are deposited with States or Other Authorities as required by law.

STATE OF WISCONSIN)
)SS
COUNTY OF WAUKESHA)

Alan P. Pavlic, President/Chief Operating Officer, and Karen J. Haffner, Treasurer/SVP of Old Republic Surety Company of Brookfield, Wisconsin being duly sworn, each for himself, deposes and says that they are the above described officers of the said company, and that on the 31st day of December, 2021, the company was actually possessed of the assets set forth in the foregoing statement and that such assets were available for the payment of losses and claims and held for the protection of its policyholders and creditors, except as here-in-before indicated, and that the foregoing statement is a correct exhibit of such assets and liabilities of the said company on the 31st day of December, 2021, according to the best of their information, knowledge and belief, respectively.

Alan P. Pavlic, President/COO

Karen J. Haffner, Treasurer/SVP

Sworn to and subscribed before me this 15th day of March, 2022.

Deborah L Voigts

Notary Public, State of Wisconsin
My Commission expires: July 31, 2023



	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Attachment "E"
Bid Price Schedule and Acceptance of Terms and Conditions

Each Bidder shall fill out and complete the Bid Schedule form included in this Section and shall submit the appropriate number of copies as part of the Bid. The purpose of the Bid Schedule is to provide a uniform comparison of the bids. This Contract is a **LUMP SUM CONTRACT consisting of two separate project sums. Award of this contract will be based on the Total Lump Sum Price of the Base Bid Items.** The Bidder is to include all costs Bidder may anticipate during the length of this project and the contract. Each Bidder shall include all extras the Bidder may determine necessary to provide the quantity and quality of Work required by the Contract Documents. Fill in the following bid breakdown which will be used to determine bid completeness and understanding, then fill in the Subtotal and Total Lump Sum Bid Prices on the lines provided. The total bid price must be equal to the sum of the values in the bid breakdown. The verified sum of the individual values in the bid breakdown takes precedence over any discrepancy between the Total Lump Sum Bid Price written and the corrected total lump sum bid price.

BASE: GW Filter #3 IMS Cap and Media Replacement

Item	Item Description	Unit	Total Price
1	Leopold Parts & Inspection (same amount as in Appendix A of Technical Specifications)	LS	$109,915.00
2	All other Services, Labor, Materials, and Equipment to Complete the Project as Described in this Bid Package	LS	$ 284,955.37
Project Total			$ 394,870.37

ALTERNATE: GW Filter #3 Pressure Cleaning & Coating

Item	Item Description	Unit	Total Price
1	Pressure Cleaning & Coating	LS	$ 29,250.00
Alternate Project Total			$ 424,120.37

Bidder/Contractor Name: Elenis Contracting LLC

Mailing Address: 2533 Coblentz Dr, Poland, OH44514

Telephone Number: 330-518-8765 E-mail Address: Aelenis@eleniscontractingllc.com

Anargiros Elenis
Authorized Signatory

Anargiros Elenis FEIN: 47-3959816
Printed Name

President
Title

2/15/2023
Date

(Attachment "E" continued)

STATE OF Ohio COUNTY OF Mahoning

The foregoing instrument was executed before me this 13 day of February, 20 23, by

Anargiros Elenis as President of Elenis Contracting LLC

____, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced Driver's License as identification.

NOTARY PUBLIC, State of OHIO

NOTARY PUBLIC STATE OF OHIO

SARAH A CRAIG
Notary Public, State of Ohio
My Comm. Expires April 15, 2023
Recorded in Mahoning County

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Attachment "F"
Trench Safety Certification

Section 553.62, Florida Statutes incorporates the Occupational Safety and Health Administration's (OSHA) safety standards, 29 CFR Section 1926.650 Subpart P, as the State standard. The Department of Labor and Employment Security may adopt updated or revised versions by rule. Other State or political subdivisions may also have standards that are applicable.

If trench excavation is required on the Project more than 5-feet in depth, the Bidder will identify the cost of compliance with the applicable trench safety standards in the table below. If there is no trench excavation on the Project in excess of 5-feet in depth, write "not applicable" below. All costs to comply with trench safety standards will be incidental to the Project or various related Pay Items.

	Trench Safety Measure (Description)	Units of Measure	Quantity	Unit Cost	Extended Cost
1.	Not Applicable				
2.					
3.					
4.					
5.					

(Attach Separate Sheet if Necessary)

If applicable, this certifies that all trench excavation performed within the control of the Contractor will be in accordance with all applicable standards and with the Specifications, and with all requirements of Florida Statute, Sections 553.63(1)(a), 553.63(1)(b), and 553.63(1)(c).

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

Bidder/Contractor Name: Elenis Contracting LLC

Mailing Address: 2533 Coblentz Dr, Poland, OH 44514

Telephone Number: 330-518-8765 Fax Number: _____ E-mail Address: Aelenis@eleniscontractingllc.com

Anargiros Elenis — Anargiros Elenis — FEIN: 47-3959816

Authorized Signatory — Printed Name

President — 2/15/2023

Title — Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	**Due Date:** **02/15/2023**
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Attachment "G"
Certificate of Non-Segregated Facilities

CERTIFICATION TO BE SUBMITTED BY CONSTRUCTION CONTRACTORS OF APPLICANTS AND THEIR SUBCONTRACTORS (APPLICABLE TO CONSTRUCTION CONTRACTS AND RELATED SUBCONTRACTS EXCEEDING TEN THOUSAND DOLLARS (US $10,000.00) WHICH ARE NOT EXEMPT FROM THE EQUAL OPPORTUNITY CLAUSE)

The construction Contractor certifies that it does not maintain or provide, for its employees, any segregated facilities at any of its establishments and that construction Contractor do not permit its employees to perform their services at any location, under construction Contractor's control, where segregated facilities are maintained. The construction Contractor certifies that it will not maintain or provide, for its employees, segregated facilities at any of its establishments and that construction Contractor will not permit its employees to perform their services at any location, under construction Contractor's control, where segregated facilities are maintained. The construction Contractor agrees that a breach of this certification is a violation of the equal opportunity clause in this Contract. As used in this certification, the term "segregated facilities" means any waiting room, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, and transportation and housing facilities provided for employees which are segregated by explicit directives or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason. The construction Contractor agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding ten thousand dollars (US $10,000.00) which are not exempt from the provisions of the equal opportunity clause and that construction Contractor will retain such certifications in its files.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

Bidder/Contractor Name: Elenis Contracting LLC

Mailing Address: 2533 Coblentz Dr, Poland, OH 44514

Telephone Number: 330-518-8765 E-mail Address: Aelenis@eleniscontractingllc.com

Anargiros Elenis
Authorized Signatory

Anargiros Elenis FEIN: 47-3959816
Printed Name

President
Title

2/15/2023
Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

Attachment "H"
Drug-Free Workplace Certification

When applicable, the drug-free certification form below must be signed and returned with the ITB response.

In order to have a drug-free workplace program, a business shall:

A. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

B. Inform employees about the dangers of drug abuse in the workplace, the business' policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.

C. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in the first paragraph.

D. In the statement specified in the first paragraph, notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893, Florida Statutes, or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.

E. Impose a sanction on, or require the satisfactory participation in, a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.

F. Make a good faith effort to continue to maintain a drug-free workplace through implementation of the foregoing provisions.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

Anargiros Elenis
AFFIANT SIGNATURE

Anargiros Elenis
Typed Name of AFFIANT

President
Title

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

STATE OF Ohio
COUNTY OF Mahoning

The foregoing instrument was executed before me this 13 day of February, 2023 by Anargiros Elenis as President of Elenis Contracting LLC, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced Driver's License as identification.

NOTARY PUBLIC, State of OHIO

SARAH A CRAIG
Notary Public, State of Ohio
My Comm. Expires April 15, 2023
Recorded in Mahoning County

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE – (if applicable)

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Attachment "I"
Conflict of Interest and Non-Collusion Statement

A. This sworn statement is submitted by Elenis Contracting LLC whose business address is 2533 Coblentz Dr, Poland, OH 44514 and (if applicable) its Federal Employer Identification Number (FEIN) is 47-3959816 of the individual signing this sworn statement: Anargiros Elenis.

My name is Anargiros Elenis and my relationship to the above entity is President.

[Please print name of individual signing]

B. **CONFLICT OF INTEREST**

A. The entity hereby submits a proposal/offer to ITB # **ITB B-23-14-COC** for IMS Cap and Media Replacement Services.

B. The AFFIANT has made diligent inquiry and provided the information in this statement affidavit based upon its full knowledge.

C. The AFFIANT states that only one submittal for this solicitation has been submitted and tendered by the appropriate date and time and that said above stated entity has no financial interest in other entities submitting a proposal for the work contemplated hereby.

D. Neither the AFFIANT nor the above-named entity has directly or indirectly entered into any agreement, participated in any collusion or collusive activity, or otherwise taken any action which in any way restricts or restraints the competitive nature of this solicitation, including but not limited to the prior discussion of terms, conditions, pricing, or other offer parameters required by this solicitation.

E. Neither the entity nor its affiliates, nor anyone associated with them, is presently suspended or otherwise prohibited from participation in this solicitation or any contract to follow thereafter by any government entity.

F. Neither the entity nor its affiliates, nor anyone associated with them, have any potential conflict of interest because and due to any other clients, contracts, or property interests in this solicitation or the resulting project.

G. I hereby also certify that no member of the entity's ownership or management or staff has a vested interest in any City Division/Department/Office.

H. I certify that no member of the entity's ownership or management is presently applying, actively seeking, or has been selected for an elected position within City of Cocoa government.

I. In the event that a conflict of interest is identified in the provision of services, I, the undersigned will immediately notify the City in writing.

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023

TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement

C. **NON-COLLUSION PROVISION CERTIFICATION**

The undersigned hereby certifies, to the best of his or her knowledge and belief, that on behalf of the person, firm, association, or corporation submitting the bid certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the submitted bid. Failure to submit the executed statement as part of the bidding documents will make the bid nonresponsive and not eligible for award consideration.

D. **LOBBYING CERTIFICATION**

The undersigned hereby certifies, to the best of his or her knowledge and belief, that:

1. No City appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence either directly or indirectly an officer or employee of the City, City Council Member of Congress in connection with the awarding of any City Contract.
2. If any funds other than City appropriated funds have been paid or will be paid to any person for influencing or attempting to influence a member of City Council or an officer or employee of the City in connection with this contract, the undersigned shall complete and submit Standard Form-L "Disclosure Form to Report Lobbying", in accordance with its instructions.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

Anargiros Elenis
AUTHORIZED SIGNATURE

Anargiros Elenis
Typed Name of AUTHORIZED SIGNATORY

President
Title

STATE OF Ohio
COUNTY OF Mahoning

The foregoing instrument was executed before me this 13 day of February, 2023, by Anargiros Elenis as President of Elenis Contracting LLC, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced Driver's License as identification.

SARAH A CRAIG
Notary Public, State of Ohio
My Comm. Expires April 15, 2023
Recorded in Mahoning County

NOTARY PUBLIC, State of Ohio

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	**Due Date:** **02/15/2023**
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Attachment "J"

Organizational Information

The Bidder must include a copy of their State Certificate of Good Standing/Articles of Incorporation, which lists the corporate officers. In addition to the aforementioned documents the Bidder/Bidder must include necessary information to verify the individual signing this proposal/bid and or any contract document has been authorized to bind the corporation. Examples include:

A. A copy of the Articles of Incorporation listing the approved signatories of the corporation.

B. A copy of a resolution listing the members of staff as authorized signatories for the company.

C. A letter from a corporate officer listing the members of staff that are authorized signatories for the company.

TYPE OF ORGANIZATION					
(Please place a check mark (✓) next to applicable type)					
✓	Corporation		Partnership		Non-Profit
	Joint Venture		Sole Proprietorship		Other (Please specify)
State of Incorporation		Ohio			
Principal Place of Business (Enter Address)		2533 Coblentz Dr Poland, OH 44514			
Federal I.D Number		47-3959816			

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

Bidder/Contractor Name:
Elenis Contracting LLC

Mailing Address:
2533 Coblentz Dr, Poland, OH 44514

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	**Due Date:** **02/15/2023**
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Telephone Number: 330-518-8765 Fax Number: _____ E-mail Address: Aelenis@eleniscontracting llc.com

Anargiros Elenis

Authorized Signatory

Anargiros Elenis FEIN: 47-3959816

Printed Name

President

Title

2/15/2023

Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE

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Attachment "K"
Proposed Schedule of Subcontractor Participation

☑ No Subcontracting (of any kind) will be utilized on this project.		Total Project Amount: $	
Subcontractor Minority Code (if applicable)	Company Name Address Phone, Fax, Email	Trade, Services or Materials portion to be subcontracted	Percent (%) of Scope/Contract
Federal ID			Dollar Value
PERCENTAGE TOTALS FOR SUBCONTRACTOR PARTICIPATION			
PERCENTAGE TOTALS FOR MINORITY SUBCONTRACTOR PARTICIPATION			

Minority Code	Code Description	Minority Code	Code Description
AA	African American	NA	Native American
A	Asian/Pacific Islander	W	Woman
H	Hispanic	SDVBE	Service Disabled Veteran

When applicable, the Bidder, will enter into a formal agreement with the subcontractors identified herein for work listed in this schedule conditioned upon execution of a contract with the City. By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

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Bidder/Contractor Name:
Elenis Contracting LLC

Mailing Address: 2533 Coblentz Dr, Poland, OH 44514

Telephone Number: 330-518-8765 Fax Number: _____ E-mail Address: aelenis@eleniscontractingllc.com

Anargiros Elenis — Authorized Signatory

Anargiros Elenis — Printed Name

FEIN: 47-3959816

President — Title

2/15/2023 — Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
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	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
	INVITATION TO BID (ITB)	Due Date: 02/15/2023
TITLE: City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement		

Attachment "L"

References

The Firm shall complete and submit this Reference Form as a part of their bid response. Filter media projects **Provide a minimum of five (5) projects performed by the Firm and completed within the last five (5) years**, which are similar type, scope, and complexity. References from projects that are at substantial completion will be accepted. (A Reference from City of Cocoa is not acceptable). The contact person provided shall be a person who has personal knowledge of the Bidder's performance for the specific requirements listed and is aware the City may be contacting them.

Project #1:				
Project Name: SHALERSVILLE WATER TREATMENT PLANT SOFTENER IMPROVEMENTS				
Type of Project/Service: 6 - Softener Vessel Rehab. Media Replacement, Hardware Replacement and Coating				
Address: 9750 Coit Rd, Mantua, OH 44255				
Contracting Agency/Client: PORTAGE COUNTY REGIONAL SEWER DISTRICT				
Contact Name and Phone #: Michael Mihalich, 330-297-3676				
Contact Email Address and Fax #: Mmihalich@portageco.com				
Contract Amount: 638,856.00	Start Date:	May-2022	End Date:	Nov-2022
Project #2:				
Project Name: Gallipolis Pressure Filters Rehabilitation				
Type of Project/Service: Media Replacement, Internal Hardware Replacement and Coating				
Address: 1248 OH-7, Gallipolis, OH 45631				
Contracting Agency/Client: Gallia Rural				
Contact Name and Phone #: Brent Bolin, 740-441-5288				
Contact Email Address and Fax #: Brentbolin@galliah20.com				
Contract Amount: 958,711.52	Start Date:	July-2022	End Date:	August-2022
Project #3:				
Project Name: Glens Falls, NY WTP Filters and Ceiling Rehab				
Type of Project/Service: 5 - Dyna Sand Dual Cell Media Replacement and 100% Solids Coating. Ceiling - Rig, Prep and Coat				
Address: 524 Aviation Road, Queensbury, NY 12804				
Contracting Agency/Client: Veolia				
Contact Name and Phone #: Rick Smith, Lead Operator 518-791-3561				
Contact Email Address and Fax #: RickSmith@cityofglensfalls.com				
Contract Amount: 636,819.00 Labor and Coating. Veolia Purchased Material	Start Date:	Dec-2021	End Date:	April-2022
Project #4:				
Project Name: Munford, TN WTP Filter Rehab				
Type of Project/Service: Filter 4,5 and 6 Media Replacement and 100% Solids Coating				
Address: 60 Water Street, Munford, TN 38058				
Contracting Agency/Client: Veolia				
Contact Name and Phone #: Nicholas Opencar, PM, 330-531-0528				
Contact Email Address and Fax #: nicholas.opencar@veolia.com				
Contract Amount: 122,706.00	Start Date:	Dec-2022	End Date:	Dec-2022
Project #5:				
Project Name: Waterford, MI 25-2 WTP Pressure Filter Media Replacement				
Type of Project/Service: Media Replacement, Internal Hardware Replacement and 100% Solids Coating				
Address: 2945 W Huron St, Waterford, MI 48328				
Contracting Agency/Client: Waterford Township				
Contact Name and Phone #: Kristin Goetze, 248-618-7451				
Contact Email Address and Fax #: kgoetze@waterfordmi.gov				
Contract Amount: 290,828.00 with change order	Start Date:	April-2021	End Date:	June-2021

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE

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Attachment "M"

Truth-in-Negotiations Certification

For lump-sum or fixed-fee Professional Service Agreements over One Hundred Ninety- Five Thousand and 00/100 Dollars ($195,000.00), the City requires the Respondent to execute this certificate and include it with their submittal.

Upon execution of an Agreement, Respondent hereby certifies that, in accordance with Section 287.055(5)(a), Florida Statutes (as amended), the wage rates and other factual unit costs supporting the compensation under this Agreement are accurate, complete and current as of the time of entering into this Agreement. The Parties agree that the City may adjust the original Agreement price and any additions thereto to exclude any significant sums by which the City determines the Agreement price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such price adjustments must be made within one (1) year following the end of the Agreement.

Proposer/Contractor Name:
Elenis Contracting LLC

Mailing Address:
2533 Coblentz Dr, Poland, OH 44514

Telephone Number: 330-518-8765 Fax Number: _____ E-mail Address: aelenis@eleniscontractingllc.com

Anargiros Elenis
Authorized Signatory

Anargiros Elenis
Printed Name

FEIN: 47-3959816

President
Title

2/15/2023
Date

STATE OF OH
COUNTY OF Mahoning

The foregoing instrument was executed before me this 13 day of February, 2023 by Anargiros Elenis as President of Elenis Contracting LLC, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced Driver's License as identification.

SARAH A CRAIG
Notary Public, State of Ohio
My Comm. Expires April 15, 2023
Recorded in Mahoning County

NOTARY PUBLIC, State of OHIO

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE

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	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
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Attachment "N"

Solicitation Response Identification Label

NOTICE TO ALL RESPONDENTS: For your convenience, the label below has been provided to properly identify your solicitation submittal. Place your submittal in a sealed envelope or package, type or print the company name and address in the area provided below and affix the label on the outer surface of the envelope or package.

City requests that all visitors call the Purchasing & Contracts Division from the courtesy phone located on the 1st Floor reception area. If you are hand-delivering a solicitation, a time/date stamp will be available at the receptionist desk. The solicitation submittal envelope or package and label will be date stamped and the Purchasing & Contracts Division will be notified. A record of all deliveries and delivery times will be documented on the Package Sign-In Sheet Receipt Log and such record will be retained.

PLEASE FILL OUT THE LABEL BELOW AND ATTACH SAME TO YOUR SOLICITATION RESPONSE ENVELOPE OR PACKAGE.

Cut out the label and tape it to the outer sealed solicitation envelope or package.

✂----------

****DO NOT OPEN**SEALED SOLICITATION**DO NOT OPEN**SEALED SOLICITATION****

ATTENTION: **PURCHASING & CONTRACTS DIVISION**

SOLICITATION NUMBER: **ITB BID #23-14-COC**

TITLE: **City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement**

SOLICITATION DUE DATE: 02/15/23 TIME: 3:00pm Local Time

FROM: Elenis Contracting LLC

2533 Coblentz Dr

Poland, OH 44514

DELIVER TO: City of Cocoa
Purchasing & Contracts Division
65 Stone Street
Cocoa, Florida 32922

****DO NOT OPEN**SEALED SOLICITATION**DO NOT OPEN**SEALED SOLICITATION****

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
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Attachment "O"

Contractor Certification Regarding Scrutinized Companies

Section 287.135, Florida Statutes, prohibits companies from bidding, submitting proposals, entering into or renewing contracts with a local government for goods or services that are on the Scrutinized Companies with Activities in Sudan List, on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Syria. Both lists are created pursuant to section 215.473, Florida Statutes.

In addition, regardless of contract value, the companies shall not be listed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or be engaged in a boycott of Israel if bidding, submitting proposals, entering into or renewing contacts with a local government for goods and services.

As the person authorized to sign on behalf of the company, I hereby certify that the company identified below is not listed on the Scrutinized Companies with Activities in Sudan List, is not listed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Syria. In addition, the company is not listed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel.

I further understand that pursuant to the Florida Statutes, the submission of a false certification, being placed on any of the Lists as indicated herein, conducting business operations with Syria, or boycotting Israel may subject the company to termination of the agreement, civil penalties, attorney's fees, and/or costs.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the company, certify that the information as provided in this **Contractor Certification Regarding Scrutinized Companies**, is truthful and correct at the time of submission.

Proposer/Contractor Name:
Elenis Contracting LLC

Mailing Address:
2533 Coblentz Dr, Poland, OH 44514

Telephone Number: 330-518-8765 Fax Number: _____ E-mail Address: aelenis@eleniscontractingllc.com

Anargiros Elenis
Authorized Signatory

Anargiros Elenis FEIN: 47-5939816
Printed Name

President
Title

2/15/2023
Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
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	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-14-COC
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Attachment "P"

E-Verify Contractor Affidavit

I hereby certify that Elenis Contracting LLC [insert contractor company name] does not employ, contract with, or subcontract with an unauthorized alien, and is otherwise in full compliance with, section 448.095, Florida Statutes.

All employees hired on or after January 1, 2021 have had their work authorization status verified through the E-Verify system.

A true and correct copy of Elenis Contracting LLC [insert contractor company name] proof of registration in the E-Verify system is attached to this Affidavit.

Anargiros Elenis

Print Name: Anargiros Elenis
Date: 2/15/2023

STATE OF OHIO
COUNTY OF Mahoning

The foregoing instrument was acknowledged before me by means of ☑ physical presence or ☐ online notarization, this FEB. 13, 2023 (date) by Anargiros Elenis (name of officer or agent, title of officer or agent) of Elenis Contracting LLC (name of corporation acknowledging), a Ohio (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced Driver's License (type of identification) as identification.

[Notary Seal] Notary Public

SARAH CRAIG
Name typed, printed, or stamped
My Commission Expires: 04/15/2023

NOTARY PUBLIC STATE OF OHIO

SARAH A CRAIG
Notary Public, State of Ohio
My Comm. Expires April 15, 2023
Recorded in Mahoning County

PLEASE COMPLETE AND SUBMIT WITH YOUR RFP RESPONSE
PROOF OF REGISTRATION FROM E-VERIFY SYSTEM MUST BE ATTACHED
☞Failure to submit this form may be grounds for disqualification of your submittal☜

My Company Profile

Company Information

Company Name
Elenis Contracting LLC

Doing Business As (DBA) Name

Company ID
1565250

Enrollment Date
Jul 14, 2020

Employer Identification Number (EIN)
473959816

Unique Entity Identifier (UEI)

DUNS Number
080857771

Total Number of Employees
1 to 4

NAICS Code
238

Sector
Construction

Subsector
Specialty Trade Contractors

Edit Company Information

Employer Category

Employer Category

None of these categories apply

Edit Employer Category

Company Addresses

Physical Address

2533 Coblentz Dr
Poland, OH 44514

Mailing Address

Same as Physical Address

Edit Company Addresses

Hiring Sites

⚠ We have implemented a new policy and require more information for existing and future hiring sites.

Number of Sites

1

Edit Hiring Sites

Company Access and MOU

My Company is Configured to:

Verify Its Own Employees

Memorandum of Understanding

View Current MOU

EXHIBIT A

Technical Specifications include Appendix A-D in the document titled "EXHIBIT A:Technical Specifications"

Attached as a separate file.

State of Florida
Department of State

I certify from the records of this office that ELENIS CONTRACTING LLC is an Ohio limited liability company authorized to transact business in the State of Florida, qualified on February 12, 2021.

The document number of this limited liability company is M21000001701.

I further certify that said limited liability company has paid all fees due this office through December 31, 2023, that its most recent annual report was filed on January 20, 2023, and that its status is active.

I further certify that said limited liability company has not filed a Certificate of Withdrawal.

Given under my hand and the Great Seal of the State of Florida at Tallahassee, the Capital, this the Twentieth day of January, 2023

Secretary of State

Tracking Number: 6163356460CC

To authenticate this certificate,visit the following site,enter this number, and then follow the instructions displayed.

https://services.sunbiz.org/Filings/CertificateOfStatus/CertificateAuthentication

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

▶ **Go to *www.irs.gov/FormW9* for instructions and the latest information.**

Give Form to the requester. Do not send to the IRS.

Print or type. See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

Anargiros Elenis

2 Business name/disregarded entity name, if different from above

Elenis Contracting LLC

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☑ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.

2533 Coblentz Dr

6 City, state, and ZIP code

Poland, OH 44514

Requester's name and address (optional)

City of Cocoa
65 Stone Street
Cocoa, FL 32922

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN,* later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

			–			–				

or

Employer identification number

4	7	–	3	9	5	9	8	1	6

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here | **Signature of U.S. person** ▶ Anargiros Elenis | **Date** ▶ 2/15/2023

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9.*

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 02/15/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER L. Calvin Jones & Company 3744 Starrs Centre Drive P.O. Box 159 Canfield OH 44406	**CONTACT NAME:** Nancy Stellato **PHONE (A/C, No, Ext):** (330) 533-1195 **FAX (A/C, No):** (330) 533-7583 **E-MAIL ADDRESS:** nstellato@lcalvinjones.com
INSURED Elenis Contracting LLC 2533 Coblentz Dr Poland OH 44514	**INSURER(S) AFFORDING COVERAGE** / **NAIC #** **INSURER A :** Admiral Insurance Company A+ XV / 24856 **INSURER B :** **INSURER C :** **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 2022-2023 Master OH SG **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR [X] Contractual Liability [X] XCU Coverage GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [ ] LOC [ ] OTHER:	Y		FEI-ECC-27241-02	03/27/2022	03/27/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG [ ]	$ 1,000,000 $ 50,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
A	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [X] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY			FEI-ECC-27241-02	03/27/2022	03/27/2023	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) [ ]	$ 1,000,000 $ $ $ $
	[ ] UMBRELLA LIAB [ ] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE [ ]	$ $ $
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [ ] **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		FEI-ECC-27241-02	03/27/2022	03/27/2023	[ ] PER STATUTE [X] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	Ohio Stop Gap Only $ 1,000,000 $ 1,000,000 $ 1,000,000
A	Contractors Pollution Liability			FEI-ECC-27241-02	03/27/2022	03/27/2023	Each Pollution Condition Aggregate	1,000,000 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

This document neither affirmatively nor negatively amends, extends, or alters the terms of or the coverage afforded by policy referenced herein.
Project: NO ITB B-23-14-COC City of Cocoa Dyal GW Filter #3 IMS Cap and Media Replacement
Additional Insured status is provided to City of Cocoa on the General Liability coverage per the additional insured form included within the policy.

CERTIFICATE HOLDER

City of Cocoa
65 Stone Street
Cocoa FL 32922

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Nancy A. Stellato

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Legislation Details (With Text)

File #:	23-136	**Version:**	1	**Name:**	
Type:	Contract			**Status:**	Consent Agenda
File created:	2/21/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	Approve Change Order #3 to Purchase Order 77494 with Kirwin Norris, PA, for on-going legal and related expert services regarding two pending lawsuits against Brandes Design-Build for Issues with the Jerry Sellers Tank Coating Failure/Repairs and Industrial Park Interior Coating Failure/Repairs. (Utilities Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	77494.pdf 77494-1.pdf 77494-2.pdf Billing and Fee Arrangements Kirwin Norris.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: February 21, 2023
Agenda Date: March 14, 2023
Prepared By: Melinda M. Keesee, Field Operations Technician
Through: John A. Walsh, P.E., Utilities Director
Requested Action:
To Approve Change Order #3 to Purchase Order 77494 with Kirwin Norris, PA, for on-going legal and related expert services regarding two pending lawsuits against Brandes Design-Build for Issues with the Jerry Sellers Tank Coating Failure/Repairs and Industrial Park Interior Coating Failure/Repairs

BACKGROUND:

On February 26, 2020, the City Manager signed a retainer agreement with Douglas W. Ackerman, from the legal firm Kirwin Norris, P.A., in anticipation of having to file a potential lawsuit against Brandes Design-Build. The City Council later authorized filing two lawsuits against Brandes Design Build and their sureties related to both the Jerry Sellers and Industrial Park projects.

An original estimated budget of $50,000 was established for legal services inclusive of engineering expert fees. P.O. 77494 was issued in the amount of $50,000. On May 25, 2021 Change Order #1 in the amount of $100,000 was processed by City Staff, and on April 12, 2022 Change Order #2 in the amount of $50,000 was approved by City Council, for a total approved purchase order of $200,000.

Because of the highly technical nature of these two pending construction cases, the purchase orders

issued for Kirwin Norris, P.A. include not only legal fees, but fees incurred for the City's engineering expert assisting the City in these cases. To-date, a substantial portion of the money drawn from the Kirwin Norris purchase orders have been to pay invoices related to the City's engineering expert.

The current remaining balance is $8,152.73. With legal support services ongoing and legal and engineering expert services continuing, the remaining balance is insufficient.

Staff is recommending a change order of $50,000 be added to the original P.O. for a total approved purchase order of $250,000.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

Budgeted	Yes
If not budgeted, is amendment/transfer attached?	N/A
Amount Requested:	$50,000.00
Account Number:	421-4010-536.31-01
Account Name:	Legal Expenses
Change Order #3 Amount:	$50,000.00
Original Purchase Order Number:	77494
Original Purchase Order Amount:	$50,000.00
Total Number of Change Orders:	3
Total Amount in Change Orders To Date:	$200,000.00

PREVIOUS ACTION:

On February 26, 2020, the City Manager approved a retainer agreement with Special Counsel Douglas Ackerman. The City Council previously authorized filing suit against Brandes Design Build and their sureties to recover costs and fees related to completing these projects.

On April 12, 2022, City Council Approved Change Order #2 to P.O. 77494 with Kirwin Norris, PA, for on-going legal and related expert services regarding two pending lawsuits against Brandes Design-Build for Issues with the Jerry Sellers Tank Coating Failure/Repairs and Industrial Park Interior Coating Failure/Repairs.

RECOMMENDED MOTION:

To Approve Change Order #3 to Purchase Order 77494 with Kirwin Norris, PA, for on-going legal and related expert services regarding two pending lawsuits against Brandes Design-Build for Issues with the Jerry Sellers Tank Coating Failure/Repairs and Industrial Park Interior Coating

Failure/Repairs.

SERVICE

CITY OF COCOA

PURCHASE ORDER

City of Cocoa
65 Stone Street
Cocoa, Florida 32922
(321) 433-8844

THIS NO. 77494

MUST BE SHOWN ON DELIVERY TICKET, INVOICE, AND STATEMENT

VENDOR NO.: 10625
VENDOR FAX NO.: 407-740-6363
VENDOR PH NO.: 407-740-6600

DATE 12/07/2020
DATE REQUIRED 9/30/2021

KIRWIN NORRIS PA
15 W CHURCH ST STE 301
ORLANDO FL 32801

DELIVER TO:

City of Cocoa
UTILITIES ADMINISTRATION
351 SHEARER BLVD
COCOA FL 32922

Florida Sales Tax Exemption No. 85-8012621548C-8

BUYER/REQ. # F.O.B.
CS 0000042072
N.E. HERNANDEZ/JAW/4010

Line#	Quantity	UM	Description	Unit Cost	Ext Cost
1	50000.00	SUM	LEGAL REPRESENTATION FOR POSSIBLE LAWSUIT AGAINST BRANDES DESIGN-BUILD AND SURETY WESTFIELD FOR THE JERRY SELLERS TANK COATING REPAIRS PROBLEMS. RETAINER AGREEMENT WITH SPECIAL COUNSEL DOUGLAS ACKERMAN WAS APPROVED BY THE CITY MANAGER ON 2-26-20. *****OPERATING REVENUE*****	1.0000	50000.00
				TOTAL	50000.00

1. Do not invoice prior to shipment.
2. Partial shipments must be covered by separate invoices.
3. The right is reserved to cancel order if not filled by specified date.
4. Acceptance of order includes acceptance of all terms, prices, delivery instructions, specifications and conditions.
5. **IMPORTANT: Invoices and packing slips must bear our Order No.**

MAIL INVOICES TO:

City of Cocoa
Accounting Division
65 Stone Street
Cocoa, Florida 32922

or

E-MAIL INVOICES TO:

accountspayable@cocoafl.org

ACCOUNT NUMBER

42140105363101

CITY OF COCOA

Purchasing Agent

TERMS AND CONDITIONS

1. **AGREEMENT**: Except as provided in Paragraph 22 below, this purchase order, including these terms, conditions, the referenced bid package, and the specifications hereto, constitute the sole and entire agreement between the parties hereto (hereinafter "Agreement" or "Purchase Order"). Seller's acceptance of this Agreement is limited to the terms and conditions hereof and written confirmation, commencing performance, or making deliveries hereunder constitutes such acceptance, notwithstanding Seller's proposal or terms additional to or different from those set forth in this Agreement. The Seller's quotation is incorporated in and made a part of this Agreement only to the extent of specifying the nature and description of the goods and services ordered and then only to the extent that such items are consistent with the other terms of this Agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any of the terms or conditions hereof. The Buyer is the City of Cocoa, Florida, (hereinafter referred to as the "City" or "Buyer").

2. **TIME IS OF THE ESSENCE**: Failure to perform services or deliver goods of the quality and quantity and within the time limit(s) specified by this Purchase Order shall, at the option of the City, relieve it of any obligation to accept and pay for such goods or services, including any undelivered shipments of goods. Upon failure to deliver as specified, the City may buy like goods or services elsewhere and charge the Seller with any increased cost or other loss incurred thereon, pursuant to applicable law, unless defective shipment of goods, or performance of defective services, as applicable, is agreed to by the City in writing. Any failure by the City to exercise its option with respect to any shipment of goods or performance of services shall not be deemed to constitute a waiver with respect to subsequent shipments of goods or performance of services. This provision is not in lieu of, and the City does not waive any remedies provided by law.

3. **WARRANTY**: With respect to services, Seller warrants unto the City that Seller has the competence and abilities to complete the services set forth herein. Seller will perform the services with due and reasonable diligence consistent with sound professional practices. With respect to goods, Seller warrants to City (a) that the goods shall be of the quality specified or of the test grade of their respective kinds if no quality is specified; shall conform to the specifications, drawings, samples and other descriptions contained herein, and to representations made by Seller or its representatives; be fit for City's particular purpose; and (b) that at the time the goods are accepted by the City, the goods shall have been produced, sold, delivered, and furnished in compliance with all applicable Federal and State laws, including but not limited to the Consumer Product Safety Act, the Federal Occupational Safety and Health Act, the Fair Employment Practices Act and the Equal Pay Act, and all applicable municipal ordinances, regulations, rules, labor agreements, and working conditions to which the goods are subject, (c) that the goods furnished hereunder are free of any claims or liens of whatever nature whether rightful or otherwise of any person, corporation, partnership or association.

4. **MODIFICATIONS**: Except as provided in Paragraph 22, this Agreement can be modified or rescinded only in writing and if signed by both parties, or their duly authorized agents.

5. **WAIVER**: The failure of the City to enforce any provision of this Agreement or exercise any right or privilege granted to the City hereunder shall not constitute or be construed as a waiver of any such provision or right and the same shall continue in full force.

6. **CITY OPTIONS**: City reserves the right to change specifications and delivery dates. Any difference in price required by such changes shall be equitably adjusted and the Agreement shall be modified in writing accordingly. City further reserves the right to terminate all or part of the work to be performed pursuant to this Agreement. In such event, City shall be liable only for materials or work done within the authorization of this Agreement. In no event shall City be liable for incidental or consequential damages by reason of such termination.

7. **INDEMNIFICATION**: Seller agrees to protect, indemnify, save and hold harmless City, its elected and appointed officials, officers, attorneys, and employees, from and against all losses, costs and expenses and from and against all claims, demands, suits and actions for damages, losses, costs, attorneys fees, expenses and from and against all liability awards, judgements, and decrees of whatsoever nature for any and all damages to property of the City or others of whatsoever nature and for any and all injury to any person (including death) arising out of or resulting from negligence of Seller, breach of this Purchase Order in the performance of services or the manufacture of goods, from any defect in materials or workmanship, from the failure of the goods to perform to its full capacity as specified in the Purchase Order, specifications of other data, or from the breach of any express or implied warranty.

8. **PATENT INDEMNIFICATION**: Seller represents and warrants that it has the right to use any and all intellectual property, either by licensure or ownership, that is supplied, indirectly or directly, under this Purchase Order. Further, the Seller agrees that the City is relying on this representation and warranty to issue this Purchase Order. Seller agrees to hold harmless and to defend City against any claims of patent or copyright infringement occasioned by the manufacturer, sale or use of material supplied under this Purchase Order and to indemnify City, and its elected and appointed officials, officers, attorneys, and employees, against any damages occasioned by such claims whether justified or unjustified.

9. **INSPECTION**: City shall have a reasonable time after delivery or performance within which to inspect the goods or services. Goods rejected will, at Seller's expense, be returned to Seller or otherwise disposed of as Seller shall reasonably request. The cost of inspection of goods or services rightfully rejected shall be charged to the Seller. If reasonable inspection disclosed that part of the goods received or services performed are defective or nonconforming, City shall have the right to cancel any unshipped portion of the order or unperformed portion of the services. Payment for the goods or services on this Purchase Order prior to inspection shall not constitute acceptance thereof, and is without prejudice to any and all claims that City may have against Seller. The making or failure to make any inspection of, or payment for acceptance of, the goods or services, shall in no way impair City's right to reject nonconforming goods or services, recover damages or exercise any other remedy to which City may be entitled; notwithstanding City's knowledge of the nonconformity, its substantiality or the ease of its discovery.

10. **TAXES**: The City government is a non-profit operation and not subject to tax.

11. **CONTINGENCIES**: Performance of any obligation under this Agreement may be suspended by either party without liability, to the extent that an act of God, war, riot, fire, explosion, accident, flood, sabotage, inability to obtain fuel or power, governmental laws, regulations, or orders, or any other cause beyond the reasonable control of such party, or labor trouble, strike, lockout or injunction (whether or not such labor event is within the reasonable control of such party) delays, prevents, restricts or limits the performance of this Agreement or the consumption, sale, use or end use of goods or services. The affected party shall invoke this provision by promptly notifying the other party in writing of the nature and estimated duration of the suspension period. At City's option, either the Agreement period shall be extended by the term of any such suspension, or the total Agreement quantity hereunder shall be reduced by the quantity not delivered or performed during the term of such suspension, and, in either event, the Agreement shall otherwise remain unaffected. In such event that Seller's performance is suspended for more than sixty (60) days during the term hereof, City may, at its option, terminate this Agreement upon written notice to the Seller.

12. **PRICE PROTECTION**: Seller warranties that the price(s) set forth herein are equal to the lowest net price, and the terms and conditions of sale as favorable as the price(s), terms and conditions afforded by the Seller to any other customer for goods or services of compatible grade or quality during the terms hereof. Should City be able to purchase goods or services of the same or comparable quality from another source at a lower delivered cost then in effect hereunder, and City gives Seller written notice hereto, City may purchase such goods or services from such other sources at such lower delivered cost unless within fifteen days of receipt by Seller of said notice, Seller meets such lower delivered cost for such quantity of goods or services. Any quantity of goods or services so purchased from another source by City shall be deducted from the total quantity offered on this Agreement, but the Agreement shall otherwise remain unaffected.

13. **PACKAGING AND CARTAGE**: No charge will be allowed for packing, boxing or cartage unless agreed upon at the time of purchase, but damage to any goods not packed to insure proper protection to same will be charged to Seller. City's order number and quantity shipped will be marked or tagged on each package. City's count will be accepted as final and conclusive on any shipment not accompanied by itemized packing slip. Delay in or non-receipt of packing lists, statements or invoices in the number of copies specified or errors or omissions of any of these will be just cause for withholding payment.

14. **HAZARD**: Seller shall notify City of any inherent hazard and applicable precautions and protective measures and provide any additional relevant information, including but not limited to Material Data Safety Sheets, for the goods being purchased herein.

15. **QUANTITY**: The quantities of goods or duration of services as indicated on the face hereof, must not be exceeded without prior written authorization from City. Excess quantities may be returned to Seller at Seller's expense.

16. **ASSIGNMENT**: No right or interest in this Agreement shall be assigned by Seller without the prior written permission of the City and no delegation of any obligation owed by either City or Seller shall be made without the prior written permission of either party. Any attempted assignment or delegation shall be wholly void and totally ineffective for all purposes.

17. **CHOICE OF LAW; VENUE**: The validity, interpretation, and performance of this Agreement shall be governed and construed in accordance with the laws of the State of Florida. In the event of any dispute under this Purchase Order, venue shall be in Brevard County, Florida for any state action and Orlando, Florida, for any federal action.

18. **PUBLIC RECORDS; RIGHT TO AUDIT RECORDS**: Written documents prepared by either the Seller or City in furtherance of this Agreement shall constitute a public record. Any such instrument maintained by Seller hereunder shall be delivered to the City upon request. The City shall also be entitled to audit the books and records of the Seller to the extent that such books and records relate to the performance of this Agreement. Such books and records shall be maintained by the Seller for a period of three (3) years from the date of final payment under this Agreement unless a shorter period is otherwise authorized in writing by the City.

19. **FISCAL YEAR FUNDING APPROPRIATION**: (a) Specified Period. Unless otherwise provided by law, a purchase order for supplies or services may be entered into for any period of time deemed to be in the best interest of the City, provided the term of the purchase order and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the initial fiscal period of the purchase order. Payment and performance obligations for succeeding fiscal periods shall be subject to the annual appropriation by City Council. (b) Cancellation Due to Unavailability of Funds in Succeeding Fiscal Periods. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the purchase order shall be cancelled and the contractor shall be entitled to reimbursement for the reasonable value of any work performed to the date of cancellation.

20. **FAILURE TO EXECUTE PURCHASE ORDER**: Failure of the successful bidder to accept the Purchase Order as specified may be cause for cancellation of the award. In the event that the order is cancelled, the award may then be made to the second lowest responsive and responsible bidder, and such bidder shall fulfill every stipulation embraced herein as if he were the original party to whom the bid award was made, or all bids may be rejected and made void by the City.

21. **INDEPENDENT CONTRACTOR**. The Seller shall perform the obligations of this Purchase Order as an independent contractor and under no circumstances shall it be considered as agent or employee of the City.

22. **OTHER RELATED AGREEMENTS.** In conjunction with, or prior to issuing this Purchase Order, the City may require the Seller to execute a full written agreement that is approved by the City Manager or City Council and executed by the City Manager or Mayor ("Master Agreement"). The Master Agreement shall take precedence over the terms and conditions set forth in this Purchase Order to the extent there are any conflicting terms and conditions. Otherwise, the Master Agreement and this Purchase Order shall be deemed supplemental to each other.

23. **SOVEREIGN IMMUNITY.** Nothing contained in this Purchase Order shall be construed as a waiver of the City's right to sovereign immunity under section 768.28, Florida Statutes, or other limitations imposed on the City's potential liability under state or federal law. The provisions of §768.28, Florida Statutes, and any other limitations or restrictions in the City's liability shall be deemed incorporated herein by this reference.

24. **INSURANCE.** If this Purchase Order requires the Seller to perform services on the City's premises or at any place where the City conducts operations, or requires the Seller to perform professional consulting services, the Seller shall request insurance coverage requirements from the City's Purchasing Manager. In circumstances where insurance is required by the City, Seller shall provide proof of insurance or insurance certificates with the City listed as an additional named insured prior to performing under this Purchase Order. Noncompliance with this Paragraph shall place the Seller in default and subject this Purchase Order to immediate cancellation.

PURCHASE ORDER

City of Cocoa
65 Stone Street
Cocoa, Florida 32922
(321) 433-8844

CHANGE NO.: 1
CHANGE DATE: 6/04/2021

THIS NO. 77494

MUST BE SHOWN ON DELIVERY TICKET, INVOICE, AND STATEMENT

VENDOR NO.: 10625
VENDOR FAX NO.: 407-740-6363
VENDOR PH NO.: 407-740-6600

DATE 12/07/2020
DATE REQUIRED 9/30/2021

KIRWIN NORRIS PA
15 W CHURCH ST STE 301
ORLANDO FL 32801

DELIVER TO:
City of Cocoa
UTILITIES ADMINISTRATION
351 SHEARER BLVD
COCOA FL 32922

Florida Sales Tax Exemption No. 85-8012621548C-8

BUYER/REQ. #
CS 0000042072 FOB
N.E. HERNANDEZ/JAW/4010

Line#	Quantity	UM	Description	Unit Cost	Ext Cost
			********** CHANGE ORDER **********		
1	150000.00	SUM	LEGAL REPRESENTATION FOR POSSIBLE LAWSUIT AGAINST BRANDES DESIGN-BUILD AND SURETY WESTFIELD FOR THE JERRY SELLERS TANK COATING REPAIRS PROBLEMS. RETAINER AGREEMENT WITH SPECIAL COUNSEL DOUGLAS ACKERMAN WAS APPROVED BY THE CITY MANAGER ON 2-26-20. *****OPERATING REVENUE*****	1.0000	150000.00
				TOTAL	150000.00

REMARKS:

1ST CHANGE ORDER ISSUED TO ADD FUNDS, $100,000.00, TO LINE ITEM # 1 PER REQ # 42838. TO COVER SERVICES THROUGH FY21.

1. Do not invoice prior to shipment.
2. Partial shipments must be covered by separate invoices.
3. The right is reserved to cancel order if not filled by specified date.
4. Acceptance of order includes acceptance of all terms, prices, delivery instructions, specifications and conditions.
5. **IMPORTANT:** **Invoices and packing slips must bear our Order No.**

ACCOUNT NUMBER

42140105363101

MAIL INVOICES TO:

City of Cocoa
Accounting Division
65 Stone Street
Cocoa, Florida 32922

or

E-MAIL INVOICES TO:

accountspayable@cocoafl.org

CITY OF COCOA

Purchasing Agent

TERMS AND CONDITIONS

1. **AGREEMENT**: Except as provided in Paragraph 22 below, this purchase order, including these terms, conditions, the referenced bid package, and the specifications hereto, constitute the sole and entire agreement between the parties hereto (hereinafter "Agreement" or "Purchase Order"). Seller's acceptance of this Agreement is limited to the terms and conditions hereof and written confirmation, commencing performance, or making deliveries hereunder constitutes such acceptance, notwithstanding Seller's proposal or terms additional to or different from those set forth in this Agreement. The Seller's quotation is incorporated in and made a part of this Agreement only to the extent of specifying the nature and description of the goods and services ordered and then only to the extent that such items are consistent with the other terms of this Agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any of the terms or conditions hereof. The Buyer is the City of Cocoa, Florida, (hereinafter referred to as the "City" or "Buyer").

2. **TIME IS OF THE ESSENCE**: Failure to perform services or deliver goods of the quality and quantity and within the time limit(s) specified by this Purchase Order shall, at the option of the City, relieve it of any obligation to accept and pay for such goods or services, including any undelivered shipments of goods. Upon failure to deliver as specified, the City may buy like goods or services elsewhere and charge the Seller with any increased cost or other loss incurred thereon, pursuant to applicable law, unless defective shipment of goods, or performance of defective services, as applicable, is agreed to by the City in writing. Any failure by the City to exercise its option with respect to any shipment of goods or performance of services shall not be deemed to constitute a waiver with respect to subsequent shipments of goods or performance of services. This provision is not in lieu of, and the City does not waive any remedies provided by law.

3. **WARRANTY**: With respect to services, Seller warrants unto the City that Seller has the competence and abilities to complete the services set forth herein. Seller will perform the services with due and reasonable diligence consistent with sound professional practices. With respect to goods, Seller warrants to City (a) that the goods shall be of the quality specified or of the test grade of their respective kinds if no quality is specified; shall conform to the specifications, drawings, samples and other descriptions contained herein, and to representations made by Seller or its representatives; be fit for City's particular purpose; and (b) that at the time the goods are accepted by the City, the goods shall have been produced, sold, delivered, and furnished in compliance with all applicable Federal and State laws, including but not limited to the Consumer Product Safety Act, the Federal Occupational Safety and Health Act, the Fair Employment Practices Act and the Equal Pay Act, and all applicable municipal ordinances, regulations, rules, labor agreements, and working conditions to which the goods are subject, (c) that the goods furnished hereunder are free of any claims or liens of whatever nature whether rightful or otherwise of any person, corporation, partnership or association.

4. **MODIFICATIONS**: Except as provided in Paragraph 22, this Agreement can be modified or rescinded only in writing and if signed by both parties, or their duly authorized agents.

5. **WAIVER**: The failure of the City to enforce any provision of this Agreement or exercise any right or privilege granted to the City hereunder shall not constitute or be construed as a waiver of any such provision or right and the same shall continue in full force.

6. **CITY OPTIONS**: City reserves the right to change specifications and delivery dates. Any difference in price required by such changes shall be equitably adjusted and the Agreement shall be modified in writing accordingly. City further reserves the right to terminate all or part of the work to be performed pursuant to this Agreement. In such event, City shall be liable only for materials or work done within the authorization of this Agreement. In no event shall City be liable for incidental or consequential damages by reason of such termination.

7. **INDEMNIFICATION**: Seller agrees to protect, indemnify, save and hold harmless City, its elected and appointed officials, officers, attorneys, and employees, from and against all losses, costs and expenses and from and against all claims, demands, suits and actions for damages, losses, costs, attorneys fees, expenses and from and against all liability awards, judgements, and decrees of whatsoever nature for any and all damages to property of the City or others of whatsoever nature and for any and all injury to any person (including death) arising out of or resulting from negligence of Seller, breach of this Purchase Order in the performance of services or the manufacture of goods, from any defect in materials or workmanship, from the failure of the goods to perform to its full capacity as specified in the Purchase Order, specifications of other data, or from the breach of any express or implied warranty.

8. **PATENT INDEMNIFICATION**: Seller represents and warrants that it has the right to use any and all intellectual property, either by licensure or ownership, that is supplied, indirectly or directly, under this Purchase Order. Further, the Seller agrees that the City is relying on this representation and warranty to issue this Purchase Order. Seller agrees to hold harmless and to defend City against any claims of patent or copyright infringement occasioned by the manufacturer, sale or use of material supplied under this Purchase Order and to indemnify City, and its elected and appointed officials, officers, attorneys, and employees, against any damages occasioned by such claims whether justified or unjustified.

9. **INSPECTION**: City shall have a reasonable time after delivery or performance within which to inspect the goods or services. Goods rejected will, at Seller's expense, be returned to Seller or otherwise disposed of as Seller shall reasonably request. The cost of inspection of goods or services rightfully rejected shall be charged to the Seller. If reasonable inspection disclosed that part of the goods received or services performed are defective or nonconforming, City shall have the right to cancel any unshipped portion of the order or unperformed portion of the services. Payment for the goods or services on this Purchase Order prior to inspection shall not constitute acceptance thereof, and is without prejudice to any and all claims that City may have against Seller. The making or failure to make any inspection of, or payment for acceptance of, the goods or services, shall in no way impair City's right to reject nonconforming goods or services, recover damages or exercise any other remedy to which City may be entitled; notwithstanding City's knowledge of the nonconformity, its substantiality or the ease of its discovery.

10. **TAXES**: The City government is a non-profit operation and not subject to tax.

11. **CONTINGENCIES**: Performance of any obligation under this Agreement may be suspended by either party without liability, to the extent that an act of God, war, riot, fire, explosion, accident, flood, sabotage, inability to obtain fuel or power, governmental laws, regulations, or orders, or any other cause beyond the reasonable control of such party, or labor trouble, strike, lockout or injunction (whether or not such labor event is within the reasonable control of such party) delays, prevents, restricts or limits the performance of this Agreement or the consumption, sale, use or end use of goods or services. The affected party shall invoke this provision by promptly notifying the other party in writing of the nature and estimated duration of the suspension period. At City's option, either the Agreement period shall be extended by the term of any such suspension, or the total Agreement quantity hereunder shall be reduced by the quantity not delivered or performed during the term of such suspension, and, in either event, the Agreement shall otherwise remain unaffected. In such event that Seller's performance is suspended for more than sixty (60) days during the term hereof, City may, at its option, terminate this Agreement upon written notice to the Seller.

12. **PRICE PROTECTION**: Seller warranties that the price(s) set forth herein are equal to the lowest net price, and the terms and conditions of sale as favorable as the price(s), terms and conditions afforded by the Seller to any other customer for goods or services of compatible grade or quality during the terms hereof. Should City be able to purchase goods or services of the same or comparable quality from another source at a lower delivered cost then in effect hereunder, and City gives Seller written notice hereto, City may purchase such goods or services from such other sources at such lower delivered cost unless within fifteen days of receipt by Seller of said notice, Seller meets such lower delivered cost for such quantity of goods or services. Any quantity of goods or services so purchased from another source by City shall be deducted from the total quantity offered on this Agreement, but the Agreement shall otherwise remain unaffected.

13. **PACKAGING AND CARTAGE**: No charge will be allowed for packing, boxing or cartage unless agreed upon at the time of purchase, but damage to any goods not packed to insure proper protection to same will be charged to Seller. City's order number and quantity shipped will be marked or tagged on each package. City's count will be accepted as final and conclusive on any shipment not accompanied by itemized packing slip. Delay in or non-receipt of packing lists, statements or invoices in the number of copies specified or errors or omissions of any of these will be just cause for withholding payment.

14. **HAZARD**: Seller shall notify City of any inherent hazard and applicable precautions and protective measures and provide any additional relevant information, including but not limited to Material Data Safety Sheets, for the goods being purchased herein.

15. **QUANTITY**: The quantities of goods or duration of services as indicated on the face hereof, must not be exceeded without prior written authorization from City. Excess quantities may be returned to Seller at Seller's expense.

16. **ASSIGNMENT**: No right or interest in this Agreement shall be assigned by Seller without the prior written permission of the City and no delegation of any obligation owed by either City or Seller shall be made without the prior written permission of either party. Any attempted assignment or delegation shall be wholly void and totally ineffective for all purposes.

17. **CHOICE OF LAW; VENUE**: The validity, interpretation, and performance of this Agreement shall be governed and construed in accordance with the laws of the State of Florida. In the event of any dispute under this Purchase Order, venue shall be in Brevard County, Florida for any state action and Orlando, Florida, for any federal action.

18. **PUBLIC RECORDS; RIGHT TO AUDIT RECORDS**: Written documents prepared by either the Seller or City in furtherance of this Agreement shall constitute a public record. Any such instrument maintained by Seller hereunder shall be delivered to the City upon request. The City shall also be entitled to audit the books and records of the Seller to the extent that such books and records relate to the performance of this Agreement. Such books and records shall be maintained by the Seller for a period of three (3) years from the date of final payment under this Agreement unless a shorter period is otherwise authorized in writing by the City.

19. **FISCAL YEAR FUNDING APPROPRIATION**: (a) Specified Period. Unless otherwise provided by law, a purchase order for supplies or services may be entered into for any period of time deemed to be in the best interest of the City, provided the term of the purchase order and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the initial fiscal period of the purchase order. Payment and performance obligations for succeeding fiscal periods shall be subject to the annual appropriation by City Council. (b) Cancellation Due to Unavailability of Funds in Succeeding Fiscal Periods. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the purchase order shall be cancelled and the contractor shall be entitled to reimbursement for the reasonable value of any work performed to the date of cancellation.

20. **FAILURE TO EXECUTE PURCHASE ORDER**: Failure of the successful bidder to accept the Purchase Order as specified may be cause for cancellation of the award. In the event that the order is cancelled, the award may then be made to the second lowest responsive and responsible bidder, and such bidder shall fulfill every stipulation embraced herein as if he were the original party to whom the bid award was made, or all bids may be rejected and made void by the City.

21. **INDEPENDENT CONTRACTOR**. The Seller shall perform the obligations of this Purchase Order as an independent contractor and under no circumstances shall it be considered as agent or employee of the City.

22. **OTHER RELATED AGREEMENTS.** In conjunction with, or prior to issuing this Purchase Order, the City may require the Seller to execute a full written agreement that is approved by the City Manager or City Council and executed by the City Manager or Mayor ("Master Agreement"). The Master Agreement shall take precedence over the terms and conditions set forth in this Purchase Order to the extent there are any conflicting terms and conditions. Otherwise, the Master Agreement and this Purchase Order shall be deemed supplemental to each other.

23. **SOVEREIGN IMMUNITY.** Nothing contained in this Purchase Order shall be construed as a waiver of the City's right to sovereign immunity under section 768.28, Florida Statutes, or other limitations imposed on the City's potential liability under state or federal law. The provisions of §768.28, Florida Statutes, and any other limitations or restrictions in the City's liability shall be deemed incorporated herein by this reference.

24. **INSURANCE.** If this Purchase Order requires the Seller to perform services on the City's premises or at any place where the City conducts operations, or requires the Seller to perform professional consulting services, the Seller shall request insurance coverage requirements from the City's Purchasing Manager. In circumstances where insurance is required by the City, Seller shall provide proof of insurance or insurance certificates with the City listed as an additional named insured prior to performing under this Purchase Order. Noncompliance with this Paragraph shall place the Seller in default and subject this Purchase Order to immediate cancellation.

SERVICE

CITY OF COCOA

PURCHASE ORDER

City of Cocoa
65 Stone Street
Cocoa, Florida 32922
(321) 433-8844

CHANGE NO.: 2
CHANGE DATE: 6/09/2022
THIS NO. 77494

MUST BE SHOWN ON DELIVERY TICKET, INVOICE, AND STATEMENT

VENDOR NO.: 10625
VENDOR FAX NO.: 407-740-6363
VENDOR PH NO.: 407-740-6600

DATE 12/07/2020
DATE REQUIRED 9/30/2021

KIRWIN NORRIS PA
15 W CHURCH ST STE 301
ORLANDO FL 32801

DELIVER TO:

City of Cocoa
UTILITIES ADMINISTRATION
351 SHEARER BLVD
COCOA FL 32922

Florida Sales Tax Exemption No. 85-8012621548C-8

BUYER/REQ. #
CS 0000042072 FOB
N.E. HERNANDEZ/JAW/4010

Line#	Quantity	UM	Description	Unit Cost	Ext Cost
			********** CHANGE ORDER **********		
1	200000.00	SUM	LEGAL REPRESENTATION FOR POSSIBLE LAWSUIT AGAINST BRANDES DESIGN-BUILD AND SURETY WESTFIELD FOR THE JERRY SELLERS TANK COATING REPAIRS PROBLEMS. RETAINER AGREEMENT WITH SPECIAL COUNSEL DOUGLAS ACKERMAN WAS APPROVED BY THE CITY MANAGER ON 2-26-20. *****OPERATING REVENUE*****	1.0000	200000.00
				TOTAL	200000.00

REMARKS:

1ST CHANGE ORDER ISSUED TO ADD FUNDS, $100,000.00, TO LINE ITEM # 1 PER REQ # 42838. TO COVER SERVICES THROUGH FY21.
2ND CHANGE ORDER ISSED TO ADD FUNDS, $50,000.00, TO LINE ITEM # 1 PER REQ # 44713. TO COVER SERVICES THROUGH FY22.

1. Do not invoice prior to shipment.
2. Partial shipments must be covered by separate invoices.
3. The right is reserved to cancel order if not filled by specified date.
4. Acceptance of order includes acceptance of all terms, prices, delivery instructions, specifications and conditions.
5. **IMPORTANT: Invoices and packing slips must bear our Order No.**

ACCOUNT NUMBER

42140105363101

MAIL INVOICES TO:

City of Cocoa
Accounting Division
65 Stone Street
Cocoa, Florida 32922

or

E-MAIL INVOICES TO:

accountspayable@cocoafl.org

CITY OF COCOA

Purchasing Agent

CITY OF COCOA PURCHASE ORDER
TERMS AND CONDITIONS

1. **AGREEMENT**: Except as provided in Paragraph 22 below, this purchase order, including these terms, conditions, the referenced bid package, and the specifications hereto, constitute the sole and entire agreement between the parties hereto (hereinafter "Agreement" or "Purchase Order"). **Seller's acceptance of this Agreement is limited to the terms and conditions hereof and written confirmation, commencing performance, or making deliveries hereunder constitutes such acceptance, notwithstanding Seller's proposal or terms additional to or different from those set forth in this Agreement.** The Seller's quotation is incorporated in and made a part of this Agreement only to the extent of specifying the nature and description of the goods and services ordered and then only to the extent that such items are consistent with the other terms of this Agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any of the terms or conditions hereof. The Buyer is the City of Cocoa, Florida, (hereinafter referred to as the "City" or "Buyer").

2. TIME IS OF THE ESSENCE: Failure to perform services or deliver goods of the quality and quantity and within the time limit(s) specified by this Purchase Order shall, at the option of the City, relieve it of any obligation to accept and pay for such goods or services, including any undelivered shipments of goods. Upon failure to deliver as specified, the City may buy like goods or services elsewhere and charge the Seller with any increased cost or other loss incurred thereon, pursuant to applicable law, unless defective shipment of goods, or performance of defective services, as applicable, is agreed to by the City in writing. Any failure by the City to exercise its option with respect to any shipment of goods or performance of services shall not be deemed to constitute a waiver with respect to subsequent shipments of goods or performance of services. This provision is not in lieu of, and the City does not waive any remedies provided by law.

3. WARRANTY: With respect to services, Seller warrants unto the City that Seller has the competence and abilities to complete the services set forth herein. Seller will perform the services with due and reasonable diligence consistent with sound professional practices. With respect to goods, Seller warrants to City (a) that the goods shall be of the quality specified or of the test grade of their respective kinds if no quality is specified; shall conform to the specifications, drawings, samples and other descriptions contained herein, and to representations made by Seller or its representatives; be fit for City's particular purpose; and (b) that at the time the goods are accepted by the City, the goods shall have been produced, sold, delivered, and furnished in compliance with all applicable Federal and State laws, including but not limited to the Consumer Product Safety Act, the Federal Occupational Safety and Health Act, the Fair Employment Practices Act and the Equal Pay Act, and all applicable municipal: ordinances, regulations, rules, labor agreements, and working conditions to which the goods are subject, (c) that the goods furnished hereunder are free of any claims or liens of whatever nature whether rightful or otherwise of any person, corporation, partnership, or association.

4. MODIFICATIONS: Except as provided in Paragraph 22, this Agreement can be modified or rescinded only in writing and if signed by both parties, or their duly authorized agents.

5. WAIVER: The failure of the City to enforce any provision of this Agreement or exercise any right or privilege granted to the City hereunder shall not constitute or be construed as a waiver of any such provision or right and the same shall continue in full force.

6. CITY OPTIONS: City reserves the right to change specifications and delivery dates. Any difference in price required by such changes shall be equitably adjusted and the Agreement shall be modified in writing accordingly. City further reserves the right to terminate all or part of the work to be performed pursuant to this Agreement. In such event, City shall be liable only for materials or work done within the authorization of this Agreement. In no event shall City be liable for incidental or consequential damages by reason of such termination.

7. INDEMNIFICATION: Seller agrees to protect, indemnify, save and hold harmless City, its elected and appointed officials, officers, attorneys, and employees, from and against all losses, costs and expenses and from and against all claims, demands, suits and actions for damages, losses, costs, attorney fees, expenses and from and against all liability awards, judgements, and decrees of whatsoever nature for any and all damages to property of the City or others of whatsoever nature and for any and all injury to any person (including death) arising out of or resulting from negligence of Seller, breach of this Purchase Order in the performance of services or the manufacture of goods, from any defect in materials or workmanship, from the failure of the goods to perform to its full capacity as specified in the Purchase Order, specifications of other data, or from the breach of any express or implied warranty.

8. PATENT INDEMNIFICATION: Seller represents and warrants that it has the right to use any and all intellectual property, either by licensure or ownership, that is supplied, indirectly or directly, under this Purchase Order. Further, the Seller agrees that the City is relying on this representation and warranty to issue this Purchase Order. Seller agrees to hold harmless and to defend City against any claims of patent or copyright infringement occasioned by the manufacturer, sale or use of material supplied under this Purchase Order and to indemnify City, and its elected and appointed officials, officers, attorneys, and employees, against any damages occasioned by such claims whether justified or unjustified.

9. INSPECTION: City shall have a reasonable time after delivery or performance within which to inspect the goods or services. Goods rejected will, at Seller's expense, be returned to Seller or otherwise disposed of as Seller shall reasonably request. The cost of inspection of goods or services rightfully rejected shall be charged to the Seller. If reasonable inspection disclosed that part of the goods received or services performed are defective or nonconforming, City shall have the right to cancel any shipped portion of the order or unperformed portion of the services. Payment for the goods or services on this Purchase Order prior to inspection shall not constitute acceptance thereof, and is without prejudice to any and all claims that City may have against Seller. The making or failure to make any inspection of, or payment for acceptance of, the goods or services, shall in no way impair City's right to reject nonconforming goods or services, recover damages or exercise any other remedy to which City may been titled; notwithstanding City's knowledge of the nonconformity, its substantiality or the ease of its discovery.

10. TAXES: The City government is a non profit operation and not subject to tax.

11. CONTINGENCIES: Performance of any obligation under this Agreement may be
suspended by either party. without liability, to the extent that an act of God, war, riot, fire, explosion, accident, flood, sabotage, inability to obtain fuel or power, governmental laws, regulations, or orders, or any other cause beyond the reasonable control of such party, or labor trouble, strike, lockout or injunction (whether or not such labor event is within the reasonable control of such party) delays, prevents, restricts or limits the performance of this Agreement or the consumption, sale, use or end use of goods or services. The affected party shall invoke this provision by promptly notifying the other party in writing of the nature and estimated duration of the suspension period. At City's option, either the Agreement period shall be extended by the term of any such suspension, or the total Agreement quantity hereunder shall be reduced by the quantity not delivered or performed during the term of such suspension, and, in either event, the Agreement shall otherwise remain unaffected. In such event that Seller's performance is suspended for more than sixty (60) days during the term hereof, City may, at its option, terminate this Agreement upon written notice to the Seller.

12. PRICE PROTECTION: Seller warranties that the price(s) set forth herein are equal to the lowest net price, and the terms and conditions of sale as favorable as the price(s), terms and conditions afforded by the Seller to any other customer for goods or services of compatible grade or quality during the terms hereof. Should City be able to purchase goods or services of the same or comparable quality from another source at a lower delivered cost then in effect
hereunder, and City gives Seller written notice hereto, City may purchase such goods or services from such other sources at such lower delivered cost unless within fifteen days of receipt by Seller of said notice, Seller meets such lower delivered cost for such quantity of goods or services. Any quantity of goods or services so purchased from another source by City shall be deducted from the total quantity offered on this Agreement, but the Agreement shall otherwise remain unaffected.

13. PACKAGING AND CARTAGE: No charge will be allowed for packing, boxing or cartage unless agreed upon at the time of purchase, but damage to any goods not packed to ensure proper protection to same will be charged to Seller. City's order number and quantity shipped will be marked or tagged on each package. City's count will be accepted as final and conclusive on any shipment not accompanied by itemized packing slip. Delay in or non-receipt of packing lists, statements or invoices in the number of copies specified or errors or omissions of any of these will be just cause for withholding payment.

14. HAZARD: Seller shall notify City of any inherent hazard and applicable precautions and protective measures and provide any additional relevant information, including but not limited to Material Data Safety Sheets, for the goods being purchased herein.

15. QUANTITY: The quantities of goods or duration of services as indicated on the face hereof, must not be exceeded without prior written authorization from City. Excess quantities may be returned to Seller at Seller's expense.

16. ASSIGNMENT: No right or interest in this Agreement shall be assigned by Seller without the prior written permission of the City and no delegation of any obligation owed by either City or Seller shall be made without the prior written permission of either party. Any attempted assignment or delegation shall be wholly void and totally ineffective for all purposes.

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24. INSURANCE: If this Purchase Order requires the Seller to perform services on the City's premises or at any place where the City conducts operations, or requires the Seller to perform professional consulting services, the Seller shall request insurance coverage requirements from the City's Purchasing Manager. In circumstances where insurance is required by the City, Seller shall provide proof of insurance or insurance certificates with the City listed as an additional named insured prior to performing under this Purchase Order. Noncompliance with this Paragraph shall place the Seller in default and subject this Purchase Order to immediate cancellation.

25. **E-VERIFY:** Pursuant to section 448.095, Florida Statutes, beginning January 1, 2021, Seller shall register with and use the U.S. Department of Homeland Security's E-Verify system, https://e-verify.uscis.gov/emp, to verify the work authorization status of all employees hired on and after January 1, 2021. Seller shall also require all subcontractors performing work under this Agreement to use the E-Verify system for any employees they may hire during the term of this Agreement. Seller shall obtain from all such subcontractors an affidavit stating the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, as defined in section 448.095, Florida Statutes. Seller shall provide a copy of all subcontractor affidavits to the City upon receipt and shall maintain a copy for the duration of the Agreement. Seller must provide evidence of compliance with section 448.095, Florida Statutes. Evidence shall consist of an affidavit from the Seller stating all employees hired on and after January 1, 2021 have had their work authorization status verified through the E-Verify system and a copy of their proof of registration in the E-Verify system. Failure to comply with this provision is a material breach of this Agreement, and shall result in the immediate termination of the Agreement without penalty to the City. Seller shall be liable for all costs incurred by the City securing a replacement Agreement, including but not limited to, any increased costs for the same services, any costs due to delay, and rebidding costs, if applicable.

Kirwin Norris, P.A.

BILLING AND FEE ARRANGEMENTS

UNDERSTANDING. We are pleased to have the opportunity to represent you. Our goal is to provide the highest quality and most efficient legal services possible. Experience has shown that our relationship will be stronger if we begin it with a mutual understanding about our fees and their payment. Unless our engagement letter alters these arrangements, we will assume that these terms are acceptable to you and that they will also apply to future matters on which we are asked to represent you.

FEES. City of Cocoa (hereinafter "Client"), agrees to be charged $300.00-$370.00 per hour for attorney time involved in contract review and/or pursuing or defending any claims arising from Client's business. Client agrees to pay the hourly rate portion of all fees incurred on a monthly basis, together with all out of pocket costs as they are incurred. The law firm reserves the right to increase or decrease the amount of the monthly bills based upon the law firm's assessment of the value of the services which were rendered on behalf of the Client. Costs include, without limitation, travel expenses, deposition transcripts, filing fees, etc. This Billing and Fee Arrangement is contingent on representation in Florida. If a case is transferred to any other out of state forum, then this Agreement shall be null and void and all arrangements for continuing representation subject to negotiation.

WORK ASSIGNMENTS. The lawyer with whom you deal primarily may assign parts of your work to other lawyers or other personnel in the office under his or her supervision, and may use other firm lawyers where specialized help is needed including attorney Todd Demetriades of Pursiano Barry Bruce Demetriades Simon LLP. The supervising lawyer will continue to be responsible to you for the entire assignment, however, and will be available to discuss the use of other personnel with you. It is our practice to assign tasks among lawyers, legal assistants, law clerks and document clerks in such a way as to produce the highest quality of work at the most reasonable expense to you.

DISBURSEMENTS ON YOUR ACCOUNT. Invoices will normally be rendered monthly for work done in the previous month, covering and identifying services rendered as well as disbursements and other charges. These disbursements and charges include items incurred and paid by us on your behalf, such as long distance telephone charges, special postage, delivery charges, telex or telecopy charges, travel, photocopying, secretarial overtime, if necessary, and use of other service providers such as printers or experts, if needed. In litigated matters, we include payments made by us for process servers, court reporters, witness fees and so on. We also make separate charges for the use of "Lexis", "Westlaw" or "Veralex" which are computerized legal research systems that in our experience significantly reduce lawyer research time. We normally request the court reporter's fees and other large disbursement items be billed or forwarded to you for payment directly to the providers of those services.

PAYMENT. We will render a statement on your account each month, and payment is due upon receipt. If for any reason any statement of ours goes unpaid, we reserve the right to withdraw

from representing you further. Unless otherwise notified in writing by the City, invoices shall be submitted to the City Attorney for initial review, and upon review, invoices will be transmitted by the City Attorney to the City's Utilities Director for payment processing in accordance with City policy.

RETAINERS. N/A.

MULTIPLE CLIENTS. In certain circumstances, more than one individual may collectively retain Kirwin Norris P.A. and they collectively will be the Client. Each Client is aware of the potential conflict among the various individuals, but each individual Client has agreed to the overall representation by Kirwin Norris P.A. and is aware of said potential conflict. Each individual Client will, if such a situation arises, seek his or her own legal counsel and Kirwin Norris P.A. may continue to collectively represent the Client.

LIABILITY FOR OPPOSING PARTY ATTORNEYS' FEES AND COURTS COSTS. Client acknowledges that Kirwin Norris P.A. has not and cannot make any guaranties as to the results which may be obtained in any litigation or arbitration or for any matter for which Kirwin Norris P.A. has been retained. All expressions relative to the possible results are purely opinions of Kirwin Norris P.A. Client further understands that there is the potential in any litigation/arbitration for the Client to be liable to the opposing party for its attorneys' fees and court costs, including possible expert witness fees, should the Client not prevail in the litigation/arbitration.

CONFLICTS IN REPRESENTATION OF THE CLIENT. From time to time there may arise matters involving a conflict of interest, which could arise if there is a lawsuit involving the Client and one of Kirwin Norris' other clients. Conflicts will be handled as follows:

a. If there is no on-going representation being provided to the Client, the Client will not be deemed to be a client of Kirwin Norris and no conflicts will be deemed to have arisen. Thus, Kirwin Norris could represent other clients in regard to matters involving the Client provided, however, those matters do not relate to the matters on which Kirwin Norris has provided representation to the Client.

b. Kirwin Norris reserves the right to terminate its representation of the Client. In that regard, Kirwin Norris will be paid in full for services rendered to that date and, as a result of the termination of said representation, Kirwin Norris will be entitled to represent the other party as if subparagraph (a) above was applicable; provided, however, that said matters do not involve the matters on which Kirwin Norris has provided representation to the Client.

c. To the extent a conflict is a "**direct conflict**" (as defined below), Kirwin Norris will meet and discuss the nature of the conflict and determine if the matter can be resolved. If the Client is unwilling to waive the conflict, Kirwin Norris reserves the right under (b) above to terminate its representation of the Client. Also, as set forth in subparagraph (a) above, if there is no on-going representation at that time, there will be no direct conflict. A "**direct conflict**" is a matter in which the client and another Kirwin Norris client are actively and directly involved with one another in an adverse way, for example, the Client is being sued by a Kirwin Norris client seeking recovery of a money judgment. An example of an "**indirect conflict**" would be a

matter in which the Client holds a judgment against Company A and one of our clients seeks to foreclose a mortgage which encumbers property owned by a Company A. The Client would be joined as a necessary party in the foreclosure because it holds a subordinate judgment lien encumbering Company A's property. That would, as set forth in subparagraph (d) below, be an indirect or incidental conflict.

d. In regard to "**Indirect or incidental conflicts**", the Client hereby agrees to waive any such conflict, and Kirwin Norris would be entitled to represent the other client in those particular matters. Indirect or incidental conflicts would be those transactions in which no actual monetary relief is required against the Client. As set forth in subparagraph (c) above, an incidental or indirect conflict would arise if Kirwin Norris represents a client and in seeking to foreclose a mortgage, the Client would be joined as a defendant because it has a second mortgage or a judgment against the owner of the property being foreclosed.

With respect to any waivers of conflicts, to the extent the Client has agreed to waive any future conflict as set forth herein, the execution of this document constitutes a waive of that conflict. If requested by Kirwin Norris, the Client will provide Kirwin Norris with a letter waiving the conflict. Such letters may be prepared by Kirwin Norris to fully define the conflict.

QUESTIONS. If you have questions about any aspect of our arrangements or our statements from time to time, feel entirely free to raise those questions. It is important that we proceed on a mutually clear and satisfactory basis in our work for you. We are open to discussion of all of these matters, including the amount of our statements, and we encourage you to be frank about them.

KIRWIN NORRIS, P.A.

By: Douglas W. Ackerman

AGREED AND ACCEPTED:

DATE: 2/26/2020

client John A. Tidkarich, Jr., ACP, ICMA-CM
CITY MANAGER

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Legislation Details (With Text)

File #:	23-147	**Version:**	1	**Name:**	
Type:	Contract			**Status:**	Consent Agenda
File created:	2/22/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	Approve a Resolution Waiving the Competitive Bidding Process for the Purpose of Making an Exemption to Competitive Purchase through Ferguson Waterworks, Melbourne, Florida for Neptune Water Meter Registers (Warranty). (Utilities Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Ferguson Warranty Registers Bid No. B566666 $9619.50.pdf Ferguson Warranty Registers Bid No. B566955 $61809.00.pdf R900i Register Warranty.pdf Resolution - Sole Source (Ferguson).pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date:	February 22, 2023
Agenda Date:	March 14, 2023
Prepared By:	Melinda M. Keesee, Field Operations Technician
Prepared By:	Donnie Howard, Field Operations Manager
Through:	Chris M. Collier, Assistant Utilities Director
Through:	John A. Walsh, P.E., Utilities Director

Requested Action:

To Approve a Resolution Waiving the Competitive Bidding Process for the Purpose of Making an Exemption to Competitive Purchase through Ferguson Waterworks, Melbourne, Florida for Neptune Water Meter Registers (Warranty)

BACKGROUND:

The City of Cocoa has standardized Neptune water meters (and related equipment) in the water distribution system since the early 1990's. In May 2018, the Customer Service and Water Field Operations Divisions (WFO) transitioned from installing manual read meters to installing radio read meters exclusively (R900*i*). Installing radio read meter technology has enabled Customer Service to read water meters more efficiently utilizing the radio reading equipment recently purchased by Customer Service.

For any water meters/registers that do not perform as expected, Neptune Technology Group Inc. will repair or replace a non-performing E-Coder R900*i* free of charge for the first ten (10) years and at a discount off of the then-current contract price or the then-current list price, whichever is less, during the remaining ten (10) years according to the discount schedule (see warranty attachment). WFO

has received quotes from Ferguson Waterworks, our sole source supplier of Neptune water meters and related components, for the current number of registers that fall under warranty. Purchasing these registers utilizing the warranty provided by Neptune Technology Group, Inc. enables the City of Cocoa to purchase new water meters/registers at a discounted rate saving the City money. Sufficient funds have been budgeted by WFO for the warranty replacement of these registers.

At this time, Utilities Department staff requests approval of the sole source purchase of Neptune warranty registers in the amount of $71,428.50 from Ferguson Waterworks.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

Budgeted	Yes
If not budgeted, is amendment/transfer attached?	N/A
Amount Requested:	$71,428.50
Account Number:	421-4025-536.46-00, WS13FS
Account Name:	Repairs and Maintenance

PREVIOUS ACTION:

None.

RECOMMENDED MOTION:

To Approve a Resolution Waiving the Competitive Bidding Process for the Purpose of Making an Exemption to Competitive Purchase through Ferguson Waterworks, Melbourne, Florida for Neptune Water Meter Registers (Warranty).

FERGUSON WATERWORKS

FEL-MELBOURNE WATERWORKS #751
7800 ELLIS ROAD
MELBOURNE, FL 32904-1517

Phone: 321-723-3177
Fax: 321-723-3350

Deliver To:
From: **Benjamin Jacobs**
Comments:

FEL-MELBOURNE WATERWORKS #751
Price Quotation
Phone: 321-723-3177
Fax: 321-723-3350

Bid No: B566666
Bid Date: 01/16/23
Quoted By: BJ

Cust Phone: 321-433-8633
Terms: 2% 25th Net 30th

Customer:
CITY OF COCOA
ACCOUNTS PAYABLE
CENTRAL WAREHOUSE
65 STONE STREET
COCOA, FL 32922

Ship To:
CITY OF COCOA
351 SHEARER BLVD
CENTRAL WAREHOUSE
ATTN: VICKI JARNAC
COCOA, FL 32922

Cust PO#:

Job Name: PRORATE REG 437117

Item	Description	Quantity	Net Price	UM	Total
	PRORATE REGISTERS RMA 437117 ----				
NRW2G13	REG 5/8 T10 V4 R900I USG PIT PRORATE YEARS 11-12 ==========	1	82.500	EA	82.50
NRW2G13	REG 5/8 T10 V4 R900I USG PIT PRORATE YEARS 13-14 ==========	71	99.000	EA	7029.00
NRW2G13	REG 5/8 T10 V4 R900I USG PIT PRORATE YEARS 15-16 ==========	20	115.500	EA	2310.00
NRW2G53	REG 2 T10 V4 R900I USG PIT PRORATE YEARS 13-14 ========== PRORATE REGISTERS RMA 437117	2	99.000	EA	198.00

Net Total:	$9619.50
Tax:	$0.00
Freight:	$0.00
Total:	$9619.50

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https://survey.medallia.com/?bidsorder&fc=126&on=63757

FERGUSON WATERWORKS

FEL-MELBOURNE WATERWORKS #75
Price Quotation

Fax: 321-723-3350

09:29:58 JAN 16 2023

Reference No: B566666

Quoted prices are based upon receipt of the total quantity for immediate shipment (48 hours). SHIPMENTS BEYOND 48 HOURS SHALL BE AT THE PRICE IN EFFECT AT TIME OF SHIPMENT UNLESS NOTED OTHERWISE. QUOTES FOR PRODUCTS SHIPPED FOR RESALE ARE NOT FIRM UNLESS NOTED OTHERWISE.

CONTACT YOUR SALES REPRESENTATIVE IMMEDIATELY FOR ASSISTANCE WITH DBE/MBE/WBE/SMALL BUSINESS REQUIREMENTS.

Seller not responsible for delays, lack of product or increase of pricing due to causes beyond our control, and/or based upon Local, State and Federal laws governing type of products that can be sold or put into commerce. This Quote is offered contingent upon the Buyer's acceptance of Seller's terms and conditions, which are incorporated by reference and found either following this document, or on the web at https://www.ferguson.com/content/website-info/terms-of-sale
Govt Buyers: All items are open market unless noted otherwise.

LEAD LAW WARNING: It is illegal to install products that are not "lead free" in accordance with US Federal or other applicable law in potable water systems anticipated for human consumption. Products with *NP in the description are NOT lead free and can only be installed in non-potable applications. Buyer is solely responsible for product selection.
COVID-19 ORDER: ANY REFERENCE TO OR INCORPORATION OF EXECUTIVE ORDER 14042 AND/OR THE EO-IMPLEMENTING FEDERAL CLAUSES (FAR 52.223-99 AND/OR DFARS 252.223-7999) IS EXPRESSLY REJECTED BY SELLER AND SHALL NOT APPLY AS SELLER IS A MATERIALS SUPPLIER AND THEREFORE EXEMPT UNDER THE EXECUTIVE ORDER.

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FERGUSON WATERWORKS

FEL-MELBOURNE WATERWORKS #751
7800 ELLIS ROAD
MELBOURNE, FL 32904-1517

Phone: 321-723-3177
Fax: 321-723-3350

Deliver To:
From: **Benjamin Jacobs**
Comments:

FEL-MELBOURNE WATERWORKS #751
Price Quotation
Phone: 321-723-3177
Fax: 321-723-3350

Bid No: B566955
Bid Date: 01/18/23
Quoted By: BJ

Cust Phone: 321-433-8633
Terms: 2% 25th Net 30th

Customer:
CITY OF COCOA
ACCOUNTS PAYABLE
CENTRAL WAREHOUSE
65 STONE STREET
COCOA, FL 32922

Ship To:
CITY OF COCOA
351 SHEARER BLVD
CENTRAL WAREHOUSE
ATTN: VICKI JARNAC
COCOA, FL 32922

Cust PO#:

Job Name: PRORATE REG R437116

Item	Description	Quantity	Net Price	UM	Total
	PRORATE REGISTERS RMA 437116 ==========				
NRPW2G11	REG P/C R900I V4 USG 5/8 T10 PIT PRORATE YEARS 11-12 ==========	6	82.500	EA	495.00
NRPW2G11	REG P/C R900I V4 USG 5/8 T10 PIT PRORATE YEARS 13-14 ==========	344	99.000	EA	34056.00
NRPW2G11	REG P/C R900I V4 USG 5/8 T10 PIT PRORATE YEARS 15-16 ==========	196	115.500	EA	22638.00
NRPW2G11	REG P/C R900I V4 USG 5/8 T10 PIT PRORATE YEARS 17-18 ==========	12	132.000	EA	1584.00
NRPW2G31	REG P/C R900I V4 USG 1 T10 PIT PRORATE YEARS 11-12 ==========	1	82.500	EA	82.50
NRPW2G31	REG P/C R900I V4 USG 1 T10 PIT ==========	4	99.000	EA	396.00
NRPW2G31	REG P/C R900I V4 USG 1 T10 PIT PRORATE YEARS 15-16 ==========	4	115.500	EA	462.00
NRPW2G41	REG P/C R900I V4 USG 1-1/2 T10 PIT PRORATE YEARS 11-12 ==========	1	82.500	EA	82.50
NRPW2G41	REG P/C R900I V4 USG 1-1/2 T10 PIT PRORATE YEARS 13-14 ==========	8	99.000	EA	792.00
NRPW2G41	REG P/C R900I V4 USG 1-1/2 T10 PIT PRORATE YEARS 15-16 ==========	6	115.500	EA	693.00
NRPW2G51	REG P/C R900I V4 USG 2 T10 PIT PRORATE YEARS 13-14 ==========	2	99.000	EA	198.00
NRPW2G51	REG P/C R900I V4 USG 2 T10 PIT	2	115.500	EA	231.00

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FERGUSON WATERWORKS

FEL-MELBOURNE WATERWORKS #75
Price Quotation

Fax: 321-723-3350

20:28:42 JAN 22 2023
Reference No: B566955

Item	Description	Quantity	Net Price	UM	Total
	PRORATE YEARS 15-16				
	==========				
NRPW8G11	REG P/C R900I V4 GAL 5/8 T10 *X	1	99.000	EA	99.00
	PRORATE YEARS 13-14				
	==========				
	PRORATE REGISTERS				
	RMA 437116				

Net Total:	$61809.00
Tax:	$0.00
Freight:	$0.00
Total:	$61809.00

Quoted prices are based upon receipt of the total quantity for immediate shipment (48 hours). SHIPMENTS BEYOND 48 HOURS SHALL BE AT THE PRICE IN EFFECT AT TIME OF SHIPMENT UNLESS NOTED OTHERWISE. QUOTES FOR PRODUCTS SHIPPED FOR RESALE ARE NOT FIRM UNLESS NOTED OTHERWISE.

CONTACT YOUR SALES REPRESENTATIVE IMMEDIATELY FOR ASSISTANCE WITH DBE/MBE/WBE/SMALL BUSINESS REQUIREMENTS.

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E-Coder®)R900*i*™ Warranty Statement

ARB® UTILITY MANAGEMENT SYSTEMS™

I. Warranty Effective Date

This warranty will be effective for any E-Coder®)R900*i*™ that has shipped since product introduction.

II. E-Coder)R900*i*

Neptune Technology Group Inc. warrants that the E-Coder)R900*i* (which includes a Neptune-supplied battery that is not intended to be removable or replaceable) shall be free from defects in manufacture and design for a period of twenty (20) years from the "date of shipment" (such period being the "Warranty Period"). Neptune shall not be responsible for any defects in the E-Coder)R900*i* (whether due to design, materials, manufacture, or otherwise) which manifest themselves after the expiration of the Warranty Period. Neptune will repair or replace a non-performing E-Coder)R900*i* free of charge for the first ten (10) years and at a discount off of the then-current contract price or the then-current list price, whichever is less, during the remaining ten (10) years according to the discount schedule at the right.

Year of Failure	E-Coder®)R900*i*™ Replacement Price Discount*
1-10	Full replacement: 100%
11	50%
12	50%
13	40%
14	40%
15	30%
16	30%
17	20%
18	20%
19	10%
20	10%

**Replacement price discount percentages will be applied towards then-current contract prices or then-current list prices, whichever is less, in effect for the year product is accepted by Neptune under warranty conditions. Replacement E-Coder)R900i registers are warranted for one (1) year after date of shipment or balance of original E-Coder)R900i warranty, whichever is greater.*

III. Warranties are inapplicable under certain conditions.

This warranty does not include field replacement labor or materials costs, which are the responsibility of the utility. This warranty does not apply if product is placed in non-recommended installations; may have been repaired with parts not recommended by Neptune; was converted, altered, or connected by other than Neptune recommended procedures; is used with other than genuine Neptune meter registers and components or read by equipment not approved or licensed by Neptune; or damaged due to improper care or maintenance, or improper periodic testing (please refer to E-Coder)R900*i* Installation and Maintenance Guide). This warranty does not apply to any E-Coder)R900*i* that has been damaged by, or subjected to, conditions which, in the opinion of Neptune, have affected the E-Coder)R900*i* register's ability of performance, including but not limited to: misuse; improper handling; application or installation; excessive operating conditions; tampering or unauthorized repairs and modifications; accidental or intentional damage; or acts of God. In no event shall Neptune be liable for special, incidental, indirect, or consequential damages, including, without limitation, lost revenue.

THE ABOVE WARRANTY FOR THE E-Coder)R900*i* IS THE SOLE AND EXCLUSIVE WARRANTY GIVEN BY NEPTUNE WITH RESPECT TO THE E-CODER)R900*i*. ALL OTHER WARRANTIES, CONDITIONS, TERMS, REPRESENTATIONS, OR OTHER LEGALLY OPERATIVE PROVISIONS CONCERNING THE E-CODER)R900*i* ARE HEREBY EXPRESSLY EXCLUDED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY, CONDITION, TERM, AND REPRESENTATION OR OTHER LEGALLY OPERATIVE PROVISION AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THIS PARAGRAPH IS EXPRESSLY INTENDED TO EXCLUDE FROM THIS CONTRACT ALL STATUTORY AND COMMON LAW WARRANTIES TO THE MAXIMUM EXTENT PERMITTED BY LAW. TO AVOID ANY AMBIGUITY OR MISUNDERSTANDING, ALL PROBLEMS ARISING WITH AN E-Coder)R900*i* AFTER THIS POINT ARE BUYER'S RESPONSIBILITY. NEPTUNE'S LIABILITY SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE E-CODER)R900*i*. NEPTUNE SHALL NOT BE SUBJECT TO AND DISCLAIMS THE FOLLOWING: (1) ANY OTHER OBLIGATIONS OR LIABILITIES ARISING OUT OF BREACHOF CONTRACT OR OF WARRANTY, (2) ANY OBLIGATIONS WHATSOEVER ARISING FROM TORT CLAIMS (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR ARISING UNDER OTHER THEORIES OF LAW WITH RESPECT TO PRODUCTS SOLD OR SERVICES RENDERED BY NEPTUNE, OR ANY UNDERTAKINGS, ACTS, OR OMISSIONS RELATING THERETO, AND (3) ALL CONSEQUENTIAL, INCIDENTAL, SPECIAL.

NEPTUNE TECHNOLOGY GROUP INC.

ISO 9001 DNV DNV Certification, Inc. REGISTERED FIRM

RESOLUTION NO. 2023-023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, WAIVING THE COMPETITIVE BIDDING PROCESS AND SETTING FORTH THE BASIS OF THE CITY MANAGER'S RECOMMENDATION THEREOF BY EXHIBIT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 2 of Article XIII of the City Charter of the City of Cocoa and Section 2-4 of the City Code of the City of Cocoa provides that competitive bidding is required for all purchases unless certain requirements are met for exceptions to the bidding requirement; and

WHEREAS, the City Manager has recommended that the competitive bidding requirement be waived for the purchase or public improvement described in Exhibit "A" attached to this Resolution and by this reference incorporated herein; and

WHEREAS, the City Council has determined that competitive bidding for the purchase or public improvement described in Exhibit "A" would not be in the City's best interest.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AS FOLLOWS:

SECTION 1. The purchase or public improvement described in Exhibit "A" is hereby approved and the competitive bidding requirement is hereby waived. The basis for the City Manager's recommendation that a competitive bidding procedure would not be in the City's best interest is attached to this Resolution and by this reference incorporated herein.

SECTION 2. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 3. This resolution shall become effective immediately upon adoption by the Cocoa City Council.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled this 14th day of March, 2023.

_____

ATTEST: Michael C. Blake, Mayor

_____

Carie Shealy, MMC, City Clerk

EXHIBIT “A”

To Resolution No. 2023-023

The City Manager recommends that the competitive bidding requirement be waived, by reason of sole source purchase, for the purpose of purchasing warranty registers, from Ferguson Waterworks, Melbourne, Florida.

The Department Director provided supporting documentation toward justification of the waiver, based on sole source, as an exception to the sealed bidding process; and based on this documentation, I support approval of the Resolution.

_____

Stockton Witten, City Manager

Legislation Details (With Text)

File #:	23-165	**Version:**	1	**Name:**	
Type:	Resolution			**Status:**	Consent Agenda
File created:	2/28/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	Approval of Resolution #2023-018 Amending the FY23 Budget BAF 23-050-T Amending Fiscal Year 2023 Budget, using General Fund Contingency for additional budget needed for legal fees related to Human Resources. (Administrative Services Director)				
Sponsors:	Department Director				
Indexes:					
Code sections:					
Attachments:	Budget Resolution FY 2023- ADA Compliant.pdf BAF 23-050-T-HR-Fund Legal Expenses (3-14-23) Agenda 23-165.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: March 1, 2023
Agenda Date: March 14, 2023
Prepared By: Tammy Gemmati, Administrative Services Director
Through: Stockton Whitten, City Manager
Requested Action:
Approval of Resolution #2023-018 Amending the FY23 Budget BAF 23-050-T Amending Fiscal Year 2023 Budget, using General Fund Contingency for additional budget needed for legal fees related to Human Resources.

BACKGROUND:

The City budgets annually for legal fees for Human Resources related legal matters. The annual legal expenses can vary year to year based on the type of legal matters. Staff had an arbitration hearing in the beginning of this Fiscal Year which was handled by labor counsel which used a large amount of legal fees and we anticipate additional expenses will be needed to cover the remaining year.

Staff recommends transferring $50,000 from Contingency. This is only an estimate and the total expenses may be lower than this depending on specific needs.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

Budgeted	No
If not budgeted, is amendment/transfer attached?	Yes

BAF# 23-050-T

Amount Requested	($50,000)
Account Number	001-1600-513.39-00
Account Name	Finance/Administrative/Contingency

Amount Requested	$50,000
Account Number	001-1600-513.31-01
Account Name	Professional Services/Legal Expenses

PREVIOUS ACTION:

N/A

RECOMMENDED MOTION:

Approval of Resolution #2023-018 Amending the FY23 Budget BAF 23-050-T Amending Fiscal Year 2023 Budget, using General Fund Contingency for additional budget needed for related legal fees.

RESOLUTION NO. 2023-018

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AMENDING THE CITY OF COCOA BUDGET FOR FISCAL YEAR 2023; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Cocoa adopted the final budget for the fiscal year commencing on October 1, 2022, and ending on September 30, 2023, at a Regular meeting held on September 27, 2022; and

WHEREAS, in accordance with Article XII, Section 5 of the City of Cocoa Charter, whereby the Council may, at any time by resolution, transfer any unused and unencumbered appropriation or portion thereof from one office or department to another; and

WHEREAS, the City Council deems it to be in the best interest of the City of Cocoa to amend its budget as provided in this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, as follows:

SECTION 1. The 2022-2023 fiscal year budget shall be amended as detailed in the attached sheets.

SECTION 2. All prior resolutions or prior resolutions inconsistent with this resolution are hereby repealed to the extent of the conflict.

SECTION 3. This resolution shall become effective immediately upon its adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, at the Budget Workshop assembled on the 14th day of March, 2023.

_____
Michael C. Blake, Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk

City of Cocoa Budget Adjustment Form FY 2023 - 23-050-T

SELECT ADJUSTMENT TYPE: BUDGET TRANSFER | REQUESTING DEPARTMENT #: 1801 | DATE PREPARED: 02/28/23

'FROM' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
($ 50,000)	001-1600-513.39-00		Finance/Administrative/Contingency	$ 223,713	$ 187,026	$ 137,026	$ 187,026
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
($ 50,000)	TOTAL						

'TO' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 50,000	001-1600-513.31-01		Professional Services/Legal Expenses	$ 30,000	$ 32,315	$ 82,315	$ 595
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 50,000	TOTAL						

REASON/JUSTIFICATION FOR ADJUSTMENT:

Additional budget is needed for legal fees for human resources related matters. Agenda 23-165.

Council/Board APPROVAL REQUIRED? *YES* (●) *NO* ( ) *DATE APPROVED:* 03/14/23 *RESOLUTION #:* 2023-018

City Council approval is needed for all transfers greater than $50,000 and transfers between Departments / Funds. All CRA adjustments are required to go their respective boards.

3/1/23	Tammy Gemmati Digitally signed by Tammy Gemmati Date: 2023.03.01 13:41:28 -05'00'	3/1/23	Colleen Campbell Digitally signed by Colleen Campbell Date: 2023.03.01 14:44:43 -05'00'		
Date	Requestor's Signature	Date	Finance Approval Signature	Date	Finance Director's Signature
3/1/23	Tammy Gemmati Digitally signed by Tammy Gemmati Date: 2023.03.01 13:41:44 -05'00'	3/1/23	Lora Howell Digitally signed by Lora Howell Date: 2023.03.01 15:07:36 -05'00'		
Date	Department Director's Signature	Date	Deputy Fin. Director's Signature	Date	City Manager's Signature

FINANCE USE ONLY:

Date Entered: _____ Entered By: _____ Group #: _____

Legislation Details (With Text)

File #:	23-177	**Version:**	1	**Name:**	
Type:	Contract			**Status:**	Consent Agenda
File created:	3/3/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	To provide approval for the City to apply for the Victims of Crime Act (VOCA) Grant Cycle 2023-2024 for partial salaries and benefits for both Victim Advocates, in order to provide victim advocate services to crime victims. (Chief of Police)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Internal Grant Application VOCA 2024.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: March 3, 2023
Agenda Date: March 14, 2023
Prepared By:
Through: Evander Collier IV, Chief of Police
Requested Action:
To provide approval for the City to apply for the Victims of Crime Act (VOCA) Grant Cycle 2023-2024 for partial salaries and benefits for both Victim Advocates, in order to provide victim advocate services to crime victims.

BACKGROUND:

The Office of the Attorney General (OAG) has announced the availability of Victims of Crime Act (VOCA) grant funds from the U.S. Department of Justice. The purpose of the VOCA grant funds is to support victims of crime by providing services that respond to the emotional and physical needs of crime victims, assist victims of crime to stabilize their lives after victimization, assist victims to understand and participate in the criminal justice system, and to provide victims of crime with a measure of safety and security.

The Cocoa Police Department is committed to reducing crime in Cocoa by strengthening our citizen's understanding of victimization. A victim advocate devotes attention to the various needs of the victim by acting as a liaison with officers, keeping the victim informed on their case, and arms them with knowledge to reduce the potential for further harm.

The funding for this project would be a necessity in providing further assistance to victims of crime in Cocoa. According to the Cocoa Police Department's report of all crimes from 2022, there were 3583

crime offenses “Not Cases”, of those, 248 were Domestic Violence related offenses. In FY2022-2023 the Cocoa Police Departments Victim Services unit served 846 victims of crime with a majority of the focus being on violent crime and domestic violence. Out of the 1783 total number of victims during the FY22/23 grant cycle, we anticipate that approximately 30% of those victims were not crime victims or were not in need of direct victim services, thus leaving approximately 402 victims in need of services.

The Victim Services Program, which began October 1, 2013, has been a great success, and as more citizens of Cocoa are aware of the victim services the Cocoa Police Department offers the more demand on the advocate. The Victim Advocate provides crisis intervention counseling, follow-up contact for cases, personal advocacy, criminal justice support, information and referrals to local organization and agencies, emotional support, assistance with property return, assistance with filing crime victim’s compensation, assistance in filing for injunctions and accompanying the individual to court hearing(s), locating transportation, and assisting in locating translators. The victim services unit has been able to expand the types of victim/survivors served from domestic violence, burglary/home invasion, assault/battery, child victims of physical abuse, homicide, robbery, fraud, and elder abuse to also include victims of arson, bullying, child victims of neglect and who are exposed to domestic violence and who have witnessed violence, child victims of sexual abuse or assault, human trafficking, identity theft and other financial crimes, robbery, stalking and harassment, teen dating violence and violation of court orders.

The Victim Advocate has created essential working relationships with other criminal justice agencies and local organizations. There has been a wonderful response from the citizens served through this program who would have otherwise fallen through the cracks. This program has proven to be a much -needed part of the City of Cocoa and the Police Department. The current Victim Advocate positions are subject to funding availability annually.

Through the VOCA Grant, the City would receive funds to partially pay for the salaries and benefits of the Victim Advocate and Victim Advocate Coordinator from the U.S. Department of Justice to continue this program. In the past, we received enough funding to compensate their full salaries as well as additional funding to support operational, supplies, and training expenses. Increased costs in the last few years alongside necessary salary increases, have resulted in higher and higher requests for funding. However, the prior three (3) awards have remained constant at $118,921.00, reducing the overall scope of the requests that could and can be made. Staff anticipates the award remaining the same for this year’s Grant Cycle.

These positions will be budgeted in FY24 when the funding becomes available October 1, 2023. These positions will only be partially funded by this grant for one year, and staff will apply in future years for continued support.

The grant cycle will run from October 1, 2023 to September 30, 2024.

STRATEGIC PLAN CONNECTION:

The Victim Advocate Program compliments the efforts of the Cocoa Police Department in reducing crime and enhancing the quality of life in our community by providing immediate and long-term assistance to the victims and survivors of crime.

BUDGETARY IMPACT:

Budgeted N/A
If not budgeted, is amendment/transfer attached? N/A

There is no further budgetary impact for Fiscal Year 2023. The grant would not be awarded until FY 2024 Budget process.

The Revenue is $118,921.00, and the salary+benefits expenses budgeted for a total of $139,690.07, for a difference of $20,769.07.

.

The Police Department will request through grant application and budget process the appropriate funds for FY 2024.

Source of Funds: ____State Revolving Loan
____ Other Loan Source:
__X_ Grant Source: State of Florida Office of The Attorney General VOCA Grant CFDA #16.575

PREVIOUS ACTION:

This is the eleventh application cycle for this grant. In previous years, we have applied for funding for a victim advocate coordinator, with adding a second victim advocate position in 2018 and every year the position(s) have been funded through VOCA. In the recent few years, we have applied for additional funding to address increased costs with the program, but have not received increase award totals to accommodate our increased needs.

RECOMMENDED MOTION:

To provide approval for the City to apply for the Victims of Crime Act (VOCA) Grant Cycle 2023-2024 for partial salaries and benefits for both Victim Advocates, in order to provide victim advocate services to crime victims.

INTERNAL GRANT APPLICATION FORM

Completed and Signed Copy of this Form **Must Be Attached** to all Grant Agenda Items

DEPARTMENT: Police Department	**DIVISION:** Support Services
POINT OF CONTACT: Joanna Tabor	**PROJECT MANAGER:** Patrick Dovale
NAME OF GRANT: FY 2023 Victim of Crimes Act (VOCA) Grant	
Assistance Listing#/CFSA#: 16.575	**FUNDING AGENCY:** DOJ
AMOUNT REQUESTED: $ 118,921.00	**GRANT DUE DATE:** 03/24/2023

PROJECT DESCRIPTION:

The two Victim Advocate positions provide services to victims of crime in the City of Cocoa Police Department's response area. The Advocates respond to emotional and physical needs of crime victims, assist in stabilizing their lives after victimization, assist in navigating the criminal justice system, and assist in obtaining all services needed to regain a sense of normalcy for the victim.
This year features a pilot program of a "condensed application," which utilizes prior-year agreements to fast-track and guarantee an award. As such, we are guaranteed only $118,921.The grant will fund most of the salaries of two Victim Advocate Personnel, and can no longer fund the entire salaries, supplies, training, and operational costs as it had in the past.

MATCH REQUIRED: No **(IF YES, HOW MUCH :) $**	**TARGET DATE TO COUNCIL:** 03/14/2023
REIMBURSEMENT GRANT: Yes	**REIMBURSEMENT SCHEDULE:** Monthly

WHAT ARE THE REPORTING REQUIREMENTS?

1. Monthly Progress Reporting
2. Monthly Financial Status Reporting / Reimbursement Requests
3. Quarterly Progress Reporting (Statistics of population served)

FUTURE REQUIREMENTS TO CONSIDER:

One-year performance period.

Future year awards are anticipated to remain static at $118,921, as they have for the prior two awards, but may be reduced due to fewer funds being passed through to the Florida Office of the Attorney General this year.

_____ Department Director

_____ Grants Administrator

_____ Deputy Finance Director

_____ Finance Director

_____ City Manager

Legislation Details (With Text)

File #:	23-180	**Version:**	1	**Name:**	
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On agenda:	3/14/2023			**Final action:**	
Title:	Authorize the City Manager to execute the attached pre-agreement materials for the Department of Environmental Protection's Resilient Florida Program grant for stormwater quality enhancements and resiliency at Dixon Blvd. and Indian River Drive. (Public Works Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	DEP Resilient Florida Program Fiscal Year 2022-2023 Implementation Grant 23FRP03_Notice of FFATA Form 3.23.22.pdf Resilient Florida Grants FY 22-23 Insurance Requirements.pdf SLFRF Reporting Requirements for Contracts and Grants 2.8.23.pdf XXXXX 7. Attachment 8. Contract Provisions SLFRF (11.15.22).pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: March 7, 2023
Agenda Date: March 14, 2023
Prepared By: Abigail Morgan, P.E., Assistant City Engineer
Through: Bryant Smith III, P.E., CFM, Public Works Director/City Engineer
Requested Action:
Authorize the City Manager to execute the attached pre-agreement materials for the Department of Environmental Protection's Resilient Florida Program grant for stormwater quality enhancements and resiliency at Dixon Blvd. and Indian River Drive.

BACKGROUND:

This project will provide stormwater quality enhancements and resiliency at Dixon Blvd. and Indian River Drive (IRD). The project will aim to elevate the roadway providing resiliency and safety. Also, an existing 19"x30" drainage pipe will be transitioned from a direct untreated outfall to the Indian River to a Nutrient Removing Filtration System (NRFS) Baffle Box. This project will also seek to tie in additional untreated outfalls on IRD to treat stormwater prior to entering the Indian River.

The City of Cocoa anticipates including a small pedestrian and bicycle lookout at the discharge location. This will provide a much-needed rest stop for both bicyclists and pedestrians using the Indian River Scenic Drive. An educational display will be included showing the benefits of this project and provide resources to users on what they can do to help achieve our goal of a clean lagoon. This project is currently in design. The Dixon Blvd. and Indian River Drive Water Quality and Resiliency

Project has an estimated total cost of $3,238,898 with a 50% match.

FDEP has requested pre-agreement materials to be completed before formal issuance of a grant agreement. The grant agreement will be provided by FDEP upon receipt of the preliminary documents provided within the attachments. The Final Grant Agreement will be brought back to City Council for approval and budget amendments accepting the revenue. Staff is requesting Council authorization for the City Manager to execute pre-agreement documents.

STRATEGIC PLAN CONNECTION:

Comprehensive Plan GOAL 9.1: The natural resources of the City's coastal planning area shall be preserved, protected or enhanced, as physically, fiscally, and practically feasible in light of impacts from sea level rise, to provide the highest possible water quality, habitat for fish and wildlife and use for public recreation while safeguarding human life, property and public expenditures.

BUDGETARY IMPACT:

Budgeted No

There is no budgetary impact at this time.

Fund Balance: The 50% Match will be funded by Fund Balance.
Source of Funds: Grant Source: Resilient Florida Grant

PREVIOUS ACTION:

On August 23, 2022, Council approved applying for FDEP Resilient Florida Grant funding with a 50% match for the construction of the Dixon Blvd. at Indian River Drive Water Quality and Resiliency Project.

RECOMMENDED MOTION:

Authorize the City Manager to execute the attached pre-agreement materials for the Department of Environmental Protection’s Resilient Florida Program grant stormwater quality enhancements and resiliency at Dixon Blvd. and Indian River Drive.

Florida Department of Environmental Protection
Federal Funding Accountability and Transparency Act Form – Subaward to a Recipient

Submit completed form to: Contracts_Adm@FloridaDEP.gov

Purpose: The Federal Funding Accountability and Transparency Act (FFATA) was signed on September 26, 2006. The intent of this legislation is to empower every American with the ability to hold the government accountable for each spending decision. The FFATA legislation requires information on federal awards (federal assistance and expenditures) be made available to the public via a single, searchable website, which is http://www.usaspending.gov/.

The FFATA Subaward Reporting System (FSRS) is the reporting tool the Florida Department of Environmental Protection ("DEP") must use to capture and report subaward and executive compensation data regarding first-tier subawards that obligate $30,000 or more in Federal funds (excluding Recovery funds as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5).
[Note: This reporting requirement is not applicable for the procurement of property and services obtained by the DEP through a Vendor relationship. Refer to 2 CFR Ch. 1 Part 170 Appendix A, Section I.c.3 for the definition of "subaward".]

Organization and Project Information: As of October 1, 2015, the following information must be provided to the DEP prior to the DEP's issuance of a subaward (Agreement) that obligates $30,000 or more in federal funds as described above. Please provide the following information and return the signed form to DEP as requested. If you have any questions, please contact the DEP's Bureau of General Services, Contracts Team at Contracts_Adm@FloridaDEP.gov or at telephone number 850/245-2361 for assistance.

UEI: NY71W5M2KSR7
(UEI must be twelve (12) characters not including dashes)*
Federal Award ID Number (FAIN#): SLFRP0125
Catalog of Federal Domestic Assistance (CFDA)#: 21.027
DEP Assigned Grant Agreement#: 23FRP03
Dollar Amount of Grant Disbursement: $ 1,619,449.00

**** If your company or organization does not have a UEI number, you will need to refer to the Sam.gov website at https://sam.gov/content/home to register your entity to request a Unique Entity ID.***

Business Name:
DBA Name (If applicable):

Principal Place of Business Address:

Address Line 1: 65 Stone St
Address Line 2:
Address Line 3:
City: Cocoa State: FL Zip+4: 32922-7982

Description of Project (up to 4000 characters):

The "Dixon Blvd. at Indian River Drive Water Quality and Resiliency Project" will elevate the roadway, providing resiliency and safety at Dixon and Indian River Drive (IRD) as well as provide stormwater treatment. The City of Cocoa plans to include a small pedestrian and bicycle lookout at the discharge location.
The elevation of the roadway at the intersection of Indian River Drive and Dixon will provide flood relief for vehicular traffic during heavy rainfall events. The project will raise the road in a manner to have additional impact to access/driveways to/from properties fronting the roadways, environmental sensitive areas and submerged lands, and existing roadway features and utilities. The addition of stormwater treatment prior to discharge at the existing stormwater outfall, located adjacent to the untreated intersection, will provide nutrient load reduction to runoff discharges from this basin to the Indian River. An existing 19”x30” drainage pipe will be transitioned from a direct untreated outfall to the Indian River to a Nutrient Removal Filtration System (NRFS) Baffle Box. The NRFS will help treat stormwater and remove trash before entering into an impaired body of water. The City of Cocoa anticipates including a small pedestrian and bicycle lookout at the discharge location. This will provide a much-needed rest stop for both bicyclists and pedestrians using the Indian River Scenic Drive. An educational display will be included showing the benefits of this project and by providing resources to users on what they can do to help achieve our goal of a clean lagoon. The preliminary design of this project has been completed. The final design and permitting is underway and projected to be completed in FY 23.

Principal Place of Project Performance (If different than principal place of business)

Address Line 1: 1209 Indian River Drive
Address Line 2:
Address Line 3:
City: Cocoa State: FL Zip+4: 32922-7535

Congressional District for Principal Place of Project Performance:
(Providing the Zip+4 ensures that the correct Congressional District is reported.)

Executive Compensation Information:

YES	NO	
○	◉	1. In your business or organization's previous fiscal year, did your business or organization (including parent organization, all branches, and all affiliates worldwide) receive (a) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance (e.g. loans, grants, subgrants, and/or cooperative agreements, etc.) subject to the Transparency Act, as defined at 2 CFR 170.320; and, (b) $30,000,000 or more in annual gross revenues from U.S. Federal procurement contracts (and subcontracts) and Federal financial assistance (e.g. loans, grants, subgrants, and/or cooperative agreements, etc.) subject to the Transparency Act?

If the answer to Question 1 is "Yes," continue to Question 2.
If the answer to Question 1 is "No", move to the signature block below to complete the certification and submittal process.

YES	NO	
○	◉	2. Does the public have access to information about the compensation of the executives in your business or organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15 (d) of the Securities Exchange Act of 1934 (15 U.S.C. 78 m (a), 78 o(d)), or Section 6104 of the Internal Revenue Code of 1986?

If the answer to Question 2 is "Yes," move to the signature block below to complete the certification and submittal process. [Note: Securities Exchange Commission information should be accessible at http://www.sec.gov/answers/execomp.htm. Requests for Internal Revenue Service (IRS) information should be directed to the local IRS for further assistance.]

If the answer to Question 2 is "NO" FFATA reporting is required. Provide the information required in the "TOTAL COMPENSATION CHART FOR MOST RECENTLY COMPLETED FISCAL YEAR" appearing below to report the "Total Compensation" for the five (5) most highly compensated "Executives", in rank order, in your organization.

For purposes of this request, the following terms apply as defined in 2 CFR Ch. 1 Part 170 Appendix A:
"Executive" is defined as "officers, managing partners, or other employees in management positions".
"Total Compensation" is defined as the cash and noncash dollar value earned by the executive during the most recently completed fiscal year and includes the following:

- Salary and bonus.
- Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives and are available generally to all salaried employees.

- Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- Above-market earnings on deferred compensation which is not tax-qualified.
- Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds $10,000.

Total Compensation Chart for Most Recently Completed Fiscal Year

Date of Fiscal Year Completion (mm/dd/yyyy) _____

The undersigned as (enter position title) _____

of (enter Business Name) _____

Certifies that on the date written below, the information provided herein is accurate.
Type or Print Name: _____ Title: _____

Signature: _____ Date: _____

Rank (Highest to Lowest)	Last Name	First Name	MI	Title	Total Compensation for Most Recently Completed Fiscal Year

The undersigned as (enter position title) City Manager
Of (enter Business Name) City of Cocoa
Certifies that on the date written below, the information provided herein is accurate.

Stockton E. Whitten
Print Name

City Manager
Title

Signature

Date

Fiscal Year 2022-2023 Grant Agreement Insurance Language and Requirements
Attachment 2, Section 8. Insurance Requirements

Please note the following:

1. Certificates must be addressed to and list the Florida Department of Environmental Protection as the certificate holder.

   Mailing address for Certificate of Insurance:
   Florida Department of Environmental Protection
   2600 Blair Stone Road, MS#235
   Tallahassee, Florida 32399

2. All certificates—excluding letters of self-insurance--must contain an endorsement naming the Florida Department of Environmental Protection as an additional insured or additional covered party for both general liability and automobile insurance policies.

3. If your policies for general liability, automobile, or worker's compensation insurance are divided across multiple certificates of insurance, please submit all certificates necessary to verify the required coverage.

Required Coverage.
At all times during the Agreement the Grantee, at its sole expense, shall maintain insurance coverage of such types and with such terms and limits described below. The limits of coverage under each policy maintained by the Grantee shall not be interpreted as limiting the Grantee's liability and obligations under the Agreement. All insurance policies shall be through insurers licensed and authorized to issue policies in Florida, or alternatively, Grantee may provide coverage through a self-insurance program established and operating under the laws of Florida. Additional insurance requirements for this Agreement may be required elsewhere in this Agreement, however the minimum insurance requirements applicable to this Agreement are:

a. Commercial General Liability Insurance.
The Grantee shall provide adequate commercial general liability insurance coverage and hold such liability insurance at all times during the Agreement. The Department, its employees, and officers shall be named as an additional insured on any general liability policies. The minimum limits shall be $250,000 for each occurrence and $500,000 policy aggregate.

b. Commercial Automobile Insurance.
If the Grantee's duties include the use of a commercial vehicle, the Grantee shall maintain automobile liability, bodily injury, and property damage coverage. Insuring clauses for both bodily injury and property damage shall provide coverage on an occurrence basis. The Department, its employees, and officers shall be named as an additional insured on any automobile insurance policy.
The minimum limits shall be as follows:
$200,000/300,000 Automobile Liability for Company-Owned Vehicles, if applicable
$200,000/300,000 Hired and Non-owned Automobile Liability Coverage

c. Workers' Compensation and Employer's Liability Coverage.
The Grantee shall provide workers' compensation, in accordance with Chapter 440, F.S. and employer liability coverage with minimum limits of $100,000 per accident, $100,000 per person, and $500,000 policy aggregate. Such policies shall cover all employees engaged in any work under the Grant.

d. Other Insurance. None.

Requirements for Self-Insured Governmental Entity

Required Coverage. At all times during the Agreement the Grantee, at its sole expense, shall maintain insurance coverage of such types and with such terms and limits described below. The limits of coverage under each policy maintained by the Grantee shall not be interpreted as limiting the Grantee's liability and obligations under the Agreement. Grantee shall provide coverage through a self-insurance program established and operating under the laws of Florida. Additional insurance requirements for this Agreement may be required elsewhere in this Agreement, however the minimum insurance requirements applicable to this Agreement are:

a. Comprehensive General Liability Insurance.
The Grantee shall provide adequate comprehensive general liability insurance coverage and hold such liability insurance at all times during the Agreement. The minimum limits shall be $200,000 for each person and $300,000 per occurrence.

b. Commercial Automobile Insurance.
If the Grantee's duties include the use of a commercial vehicle, the Grantee shall maintain automobile liability, bodily injury, and property damage coverage. Insuring clauses for both bodily injury and property damage shall provide coverage on an occurrence basis. The minimum limits shall be as follows:

$200,000/300,000	Automobile Liability for Company-Owned Vehicles, if applicable
$200,000/300,000	Hired and Non-owned Automobile Liability Coverage

c. Workers' Compensation.
The Grantee shall comply with the workers' compensation requirements of Chapter 440, F.S.

d. Other Insurance. None.

Requirements for Self-Insured Entities

Required Coverage. At all times during the Agreement the Grantee, at its sole expense, shall maintain insurance coverage of such types and with such terms and limits described below. The limits of coverage under each policy maintained by the Grantee shall not be interpreted as limiting the Grantee's liability and obligations under the Agreement. Grantee shall provide coverage through a self-insurance program established and operating under the laws of Florida. Additional insurance requirements for this Agreement may be required elsewhere in this Agreement, however the minimum insurance requirements applicable to this Agreement are:

d. Commercial General Liability Insurance.
The Grantee shall provide adequate comprehensive general liability insurance coverage and hold such liability insurance at all times during the Agreement. The minimum limits shall be $250,000 for each occurrence and $500,000 policy aggregate.

e. Commercial Automobile Insurance.
If the Grantee's duties include the use of a commercial vehicle, the Grantee shall maintain automobile liability, bodily injury, and property damage coverage. Insuring clauses for both bodily injury and property damage shall provide coverage on an occurrence basis. The minimum limits shall be as follows:

$200,000/300,000	Automobile Liability for Company-Owned Vehicles, if applicable
$200,000/300,000	Hired and Non-owned Automobile Liability Coverage

f. Workers' Compensation.
The Grantee shall comply with the workers' compensation requirements of Chapter 440, F.S.

d. Other Insurance. None.

State and Local Fiscal Recovery Funds (SLFRF) Reporting Requirements

Contracts and Grant Agreements funded with SLFRF funds are required additional reporting requirements to be kept with the project file. Complete the required reporting questions below and return to your Contract/Grant Agreement's Contract/Grant Manager.

1. Provide a brief narrative as to how the Contractor/Grantee will comply with Title VI of the Civil Rights Act of 1964.

As part of the City of Cocoa's standard procurement policy, the City abides by or enforces the equal opportunity clause found in 2 C.F.R. Part 200 as applicable for contracts signed by or developed by the City.

2. No additional reporting requirements.

Printed Name of Authorized Representative	Contractor/Grantee Name
Signature of Authorized Representative	Title
Project Name	

ATTACHMENT 8
Contract Provisions for Coronavirus State and Local Fiscal Recovery Funds (SLFRF) Agreements

The Department, as a Non-Federal Entity as defined by 2 CFR §200.69, shall comply with the following provisions, where applicable. For purposes of this Grant Agreement between the Department and the Grantee, the term "Recipient" shall mean "Grantee."

Further, the Department, as a pass-through entity, also requires the Grantee to pass on these requirements to all lower tier subrecipients/contractors, and to comply with the provisions of the award, the SLFRF implementing regulation, including applicable provisions of the OMB Uniform Guidance (2 CFR Part 200), and all associated terms and conditions. Therefore, Grantees must include these requirements in all related subcontracts and/or sub-awards. Grantees can include these requirements by incorporating this Attachment in the related subcontract and/or sub-awards, however for all such subcontracts and sub-awards, the Grantee shall assume the role of the Non-Federal Entity and the subrecipients shall assume the role of the Recipient.

2 CFR PART 200 APPENDIX 2 REQUIREMENTS

1. Administrative, Contractual, and Legal Remedies

The following provision is required if the Agreement is for more than $150,000. In addition to any of the remedies described elsewhere in the Agreement, if the Recipient materially fails to comply with the terms and conditions of this Contract, including any Federal or State statutes, rules, or regulations, applicable to this Contract, the Non-Federal Entity may take one or more of the following actions.

A. Temporarily withhold payments pending correction of the deficiency by the Recipient.
B. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
C. Wholly or partly suspend or terminate this Contract.
D. Take other remedies that may be legally available.

The remedies identified above, do not preclude the Recipient from being subject to debarment and suspension under Presidential Executive Orders 12549 and 12689. The Non-Federal entity shall have the right to demand a refund, either in whole or part, of the funds provided to the Recipient for noncompliance with the terms of this Agreement.

2. Termination for Cause and Convenience

Termination for Cause and Convenience are addressed elsewhere in the Agreement.

3. Equal Opportunity Clause

The following provision applies if the agreement meets the definition of "federally assisted construction contract" as defined by 41 CFR Part 60-1.3:

During the performance of this Agreement, the Recipient agrees as follows:

A. The Recipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Recipient will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:
   i. Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Recipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
B. The Recipient will, in all solicitations or advertisements for employees placed by or on behalf of the Recipient, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
C. The Recipient will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's

essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Recipient's legal duty to furnish information.

D. The Recipient will send to each labor union or representative of workers with which he has a collective bargaining agreement or other Agreement or understanding, a notice to be provided advising the said labor union or workers' representatives of the Recipient's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

E. The Recipient will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

F. The Recipient will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

G. In the event of the Recipient's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Recipient may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

H. The Recipient will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Recipient will take such action with respect to any subcontractor purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

4. Contract Work Hours and Safety Standards Act

Where applicable, if the Agreement is in excess of $100,000 and involves the employment of mechanics or laborers, the Recipient must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each Recipient must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. Rights to Inventions Made Under Agreement

If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the Non- Federal Entity or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the Non-Federal Entity or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

6. Clean air Act (42 U.S. C. 7401-7671q.), the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), and EPA Regulations

If the Agreement is in excess of $100,000, the Recipient shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control

Act as amended (33 U.S.C. 1251-1387), and by the EPA (40 CFR Part 15). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).

i. The Grantee shall include these requirements for the Clean Air Act and the Federal Water Pollution Act in each subcontract exceeding $100,000 financed in whole or in part with SLFRF funds.

7. Debarment and Suspension (Executive Orders 12549 and 12689)

The Recipient certifies that it is not listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 and 2 CF 1200 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension."

8. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

The Recipient certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. If applicable, the Recipient shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award, using form SF-LLL, available at: https://apply07.grants.gov/apply/forms/sample/SFLLL_1_2_P-V1.2.pdf.

i. Grantees who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier, up to the recipient.

9. Procurement of Recovered Materials

The Recipient must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act as described in 2 CFR part 200.322.

10. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

The Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as partof any system. See Section 889 of Public Law 115-232 (National Defense Authorization Act 2019). Also, see 2 CFR 200.216 and 200.471.

11. Domestic Preferences for Procurement

The Recipients and subrecipients must, to the greatest extent practical, give preference to the purchase, acquisition, or use of goods, products, or materials produced in the United States in accordance with 2 CFR 200.322.

ADMINISTRATIVE

1. General Federal Regulations

Recipients shall comply with the regulations listed in 2 CFR 200, 48 CFR 31, and 40 U.S.C. 1101 *et seq.*

2. Rights to Patents and Inventions Made Under a Contract or Agreement

Rights to inventions made under this assistance agreement are subject to federal patent and licensing regulations, which are codified at Title 37 CFR Part 401 and Title 35 U.S.C. 200 through 212.

3. Compliance with the Trafficking Victims Protection Act of 2000 (2 CFR Part 175)

Recipients, their employees, subrecipients under this award, and subrecipients' employees may not:

A. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
B. Procure a commercial sex act during the period of time that the award is in effect; or
C. Use forced labor in the performance of the award or subawards under the award.

4. Whistleblower Protection

Recipients shall comply with U.S.C. §4712, Enhancement of Recipient and Subrecipient Employee Whistleblower Protection. This requirement applies to all awards issued after July 1, 2013 and effective December 14, 2016 has been permanently extended (Public Law (P.L.) 114-261).

A. This award, related subawards, and related contracts over the simplified acquisition threshold and all employees working on this award, related subawards, and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies in the pilot program on award recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (P.L. 112-239).

B. Recipients, their subrecipients, and their contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.

C. The Recipient shall insert this clause, including this paragraph C, in all subawards and in contracts over the simplified acquisition threshold related to this award; best efforts should be made to include this clause, including this paragraph C in any subawards and contracts awarded prior to the effective date of this provision.

5. Notification of Termination (2 CFR § 200.340)

In accordance with 2 CFR § 200.340, in the event that the Agreement is terminated prior to the end of the period of performance due to the Recipient's or subcontractor's material failure to comply with Federal statutes, regulations or the terms and conditions of this Agreement or the Federal award, the termination shall be reported to the Office of Management and Budget (OMB)-designated integrity and performance system, accessible through System for Award Management (SAM) currently the Federal Awardee Performance and Integrity Information System (FAPIIS). The Non-Federal Entity will notify the Recipient of the termination and the Federal requirement to report the termination in FAPIIS. See 2 CFR § 200.340 for the requirements of the notice and the Recipient's rights upon termination and following termination.

6. Additional Lobbying Requirements

A. The Recipient certifies that no funds provided under this Agreement have been used or will be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law.

B. The Lobbying Disclosure Act of 1995, as amended (2 U.S.C. §1601 et seq.), prohibits any organization described in Section 501(c)(4) of the Internal Revenue Code, from receiving federal funds through an award, grant (and/or subgrant) or loan unless such organization warrants that it does not, and will not engage in lobbying activities prohibited by the Act as a special condition of such an award, grant (and/or subgrant), or loan. This restriction does not apply to loans made pursuant to approved revolving loan programs or to contracts awarded using proper procurement procedures.

C. Pursuant to 2 CFR §200.450 and 2 CFR §200.454(e), the Recipient is hereby prohibited from using funds provided by this Agreement for membership dues to any entity or organization engaged in lobbying activities.

7. Increasing Seat Belt Use in the United States

Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Grantee is encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented or personally owned vehicles.

8. Reducing Text Messaging While Driving

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Grantee is encouraged to adopt and enforce policies that ban text messaging while driving and establish workplace safety policies to decrease accidents caused by distracted drivers.

9. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970

Where applicable, 42 U.S.C. §§ 4601-4655 and implementing regulations apply to this Agreement.

COMPLIANCE WITH ASSURANCES

1. Assurances

Recipients shall comply with all applicable assurances made by the Department or the Recipient to the Federal Government during the Grant application process.

FEDERAL REPORTING REQUIREMENTS

1. FFATA

Grant Recipients awarded a new Federal grant greater than or equal to $30,000 awarded on or after October1, 2015, are subject to the FFATA the Federal Funding Accountability and Transparency Act ("FFATA") of 2006. The FFATA legislation requires that information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is www.USASpending.gov.

The Grantee agrees to provide the information necessary, within one (1) month of execution, for the Department to comply with this requirement.

DEPARTMENT OF TREASURY-SPECIFIC

1. Civil Rights Compliance

Recipients of Federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Treasury do not deny benefits or services or otherwise discriminate on the basis of race, color, national origin, (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following: Title VI of Civil Rights Acts of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department of Treasury implementing regulations at 31 CFR part 23.

The Department of Treasury will request information on recipients' compliance with Title VI of the Civil Rights Act of 1964, as applicable, on an annual basis. This information may include a narrative descripting the recipient's compliance with Title VI, along with other questions and assurances.

SLFRF-SPECIFIC

1. Period of Performance

All funds from SLFRF must be obligated by December 31, 2024 and expended by December 31, 2026.

2. Equipment and Real Property Management

Any purchase of equipment or real property with SLFRF funds must be consistent with the Uniform Guidance at 2 CFR Part 200, Subpart D. Equipment and real property acquired under this program must be used for the originally authorized purpose. Consistent with 2 CFR 200.311 and 2 CFR 200.313, any equipment or real property acquired using SLFRF funds shall vest in the non-Federal entity. Any acquisition and maintenance of equipment or real property must also be in compliance with relevant laws and regulations.

SLFRF INFRASTRUCTURE PROJECTS

For all infrastructure projects, the Grantee shall provide the following project information on a quarterly basis to the Department:

i. Projected/actual construction start date (month/year)
ii. Projected/actual initiation of operation date (month/year)
iii. Location details

SLFRF INFRASTRUCTURE PROJECTS OVER $10 MILLION

For infrastructure projects over $10 million, the following provisions apply:

1. Wage Certification

Grantees may provide a certification that all laborers and mechanics employed by Grantee in the performance of such project are paid wages at the rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with the Davis-Bacon Act, for the corresponding classes of laborers and mechanics employed projected of a character similar to the contract work in the civil subdivision of Florida in which the work is to be performed. If the Grantee does not provide such certification, the Grantee must provide a project employment and local impact report detailing:

i. The number of employees of contractors and sub-contractors working on the project;
ii. The number of employees on the project hired directly and hired through a third party;
iii. The wages and benefits of workers on the project by classification; and
iv. Whether those wages are at rates less than those prevailing.

Grantee must maintain sufficient records to substantiate this information upon request.

2. Project Labor Agreements

Grantees may provide a certification that the project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with the section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the Grantee does not provide such certification, the Grantee must provide a project

workforce continuity plan, detailing:

i. How the Grantee will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project;

ii. How the Grantee will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project;

iii. How the Grantee will provide a safe and healthy workplace that avoids delays and costs associatedwith workplace illnesses, injuries, and fatalities;

iv. Whether workers on the project will receive wages and benefits that will secure and appropriately skilled workforce in the context of the local or regional labor market; and

v. Whether the project has completed a labor agreement.

3. Other Reporting Requirements

Grantees must report whether the project prioritizes local hires and whether the project has Community Benefit Agreement, with a description of any such agreement, if applicable.

SLFRF WATER & SEWER PROJECTS

For water and sewer projects, Grantees shall provide the following information to the Department once the project starts, as appliable:

i. National Pollutant Discharge Elimination System (NPDES) Permit Number, for projects aligned with the Clean Water State Revolving Fund

ii. Public Water System (PWS) ID number, for projects aligned with the Drinking Water State Revolving Fund.

Legislation Details (With Text)

File #:	23-188	**Version:**	1	**Name:**	
Type:	Resolution			**Status:**	Consent Agenda
File created:	3/8/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	Approve a Resolution Amending the FY23 Budget, BAF 23-054-A to roll the Grant Budget into the current fiscal year for each grant fund. (Finance Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Budget Resolution FY 2023- Agenda 23-126.pdf BAF 23-054-A-Grants Roll (3-14-23) Agenda 23-188.pdf BAF 23-054-A-Tracking Sheet.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: March 8, 2023
Agenda Date: March 14, 2023
Prepared By: Colleen Campbell, MBA, Senior Budget Analyst
Through: Rebecca Bowman, MBA, CGFO, CGFM, Finance Director
Requested Action:
Approve a Resolution Amending the FY23 Budget, BAF 23-054-A to roll the Grant Budget into the current fiscal year for each grant fund.

BACKGROUND:

Each year the Finance Department reconciles the full revenue and expenditures based on draw downs and project spend. Once the reconciliation is completed, the appropriate budget is allocated to each grants budget.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

Budgeted	No
If not budgeted, is amendment/transfer attached?	Yes

Please see attached Tracking Sheet for details.

PREVIOUS ACTION:

N/A

RECOMMENDED MOTION:

Approve a Resolution Amending the FY23 Budget, BAF 23-054-A to roll the Grant Budget into the current fiscal year for each grant fund.

RESOLUTION NO. 2023-027

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AMENDING THE CITY OF COCOA BUDGET FOR FISCAL YEAR 2023; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Cocoa adopted the final budget for the fiscal year commencing on October 1, 2022, and ending on September 30, 2023, at a Regular meeting held on September 26, 2022; and

WHEREAS, in accordance with Article XII, Section 5 of the City of Cocoa Charter, whereby the Council may, at any time by resolution, transfer any unused and unencumbered appropriation or portion thereof from one office or department to another; and

WHEREAS, the City Council deems it to be in the best interest of the City of Cocoa to amend its budget as provided in this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, as follows:

SECTION 1. The 2022-2023 fiscal year budget shall be amended as detailed in the attached sheets.

SECTION 2. All prior resolutions or prior resolutions inconsistent with this resolution are hereby repealed to the extent of the conflict.

SECTION 3. This resolution shall become effective immediately upon its adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, in a Regular meeting assembled on the 14th day of March 2023.

_____
Michael C. Blake, Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk

City of Cocoa Budget Adjustment Form FY 2023 - 23-054-A

SELECT ADJUSTMENT TYPE: BUDGET AMENDMENT | REQUESTING DEPARTMENT #: 1600-FN | DATE PREPARED: 03/09/23

'REVENUE' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 0			General Fund - See tracking sheet	$ 0	$ 0	$ 0	$ 0
$ 0			CDBG Fund - See tracking sheet	$ 0	$ 0	$ 0	$ 0
$ 0			SLFRF - See tracking sheet	$ 0	$ 0	$ 0	$ 0
$ 0			Fiske Blvd Fund - See tracking sheet	$ 0	$ 0	$ 0	$ 0
$ 0			Renewal & Replace Fund - See tracking she	$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0	TOTAL						

'EXPENSE' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 0			General Fund - See tracking sheet	$ 0	$ 0	$ 0	$ 0
$ 0			CDBG Fund - See tracking sheet	$ 0	$ 0	$ 0	$ 0
$ 0			SLFRF - See tracking sheet	$ 0	$ 0	$ 0	$ 0
$ 0			Fiske Blvd Fund - See tracking sheet	$ 0	$ 0	$ 0	$ 0
$ 0			Renewal & Replace Fund - See tracking she	$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0	TOTAL						

REASON/JUSTIFICATION FOR ADJUSTMENT:

Each year finance reconciles the full revenue and expenditures based on draw downs and project spend. This amendment is to assign the grant funds budget. See attached tracking sheet for line level detail of transactions.
Agenda 23-188

Council/Board APPROVAL REQUIRED? *YES* (●) ***NO*** ( ) ***DATE APPROVED:*** 03/14/23 ***RESOLUTION #:***

City Council approval is needed for all transfers greater than $50,000 and transfers between Departments / Funds. All CRA adjustments are required to go their respective boards.

3/9/23	Colleen Campbell Digitally signed by Colleen Campbell Date: 2023.03.09 14:53:16 -05'00'	3/9/23	Colleen Campbell Digitally signed by Colleen Campbell Date: 2023.03.09 15:30:16 -05'00'		
Date	Requestor's Signature	Date	Finance Approval Signature	Date	Finance Director's Signature
	Rebecca Bowman Digitally signed by Rebecca Bowman Date: 2023.03.09 16:18:16 -05'00'	3/9/23	Lora Howell Digitally signed by Lora Howell Date: 2023.03.09 15:38:49 -05'00'		
Date	Department Director's Signature	Date	Deputy Fin. Director's Signature	Date	City Manager's Signature

FINANCE USE ONLY:

Date Entered: _____ Entered By: _____ Group #: _____

BAF 23-054-A-FY23 Grant Roll

General Fund

Bulletproof Vest Grant Award 2021

$	(25,444)		001-0000-389.99-50	
$	(25,444)	GR2202	001-2100-521.52-23	(PO #78492 Reverse Entry BAF 23-001)
$	12,722	GR2202	001-0000-389.99-50	(Match)
$	12,722	GR2202	001-0000-331.20-23	(Grant Revenue)
$	25,444			

$	25,444	GR2202	001-2100-521.52-23	(PO # 78492 Federal Eastern International)

JAG 21-GG-01363 Award 2021

$	8,960	GR2203	001-0000-331.20-22	
$	3,976	GR2203	001-2100-521.55-22	
$	4,984	GR2203	001-2100-521.40-22	
$	8,960			

2020 HPF African American Civil Rights Historical Research

$	30,000	GR2111	001-0000-331.70-02	
$	30,000	GR2111	001-3200-515.31-15	
$	60,000			

FY2023 Grant VOCA 2022-COCOA PD 00181

$	(9,813)	GR2301	001-0000-331.20-24	(VOCA Award was decreased by $9813)
$	(1,080)	GR2301	001-2100-521.41-35	Communication
$	(1,397)	GR2301	001-2100-521.55-35	Training
$	(651)	GR2301	001-2100-521.52-35	Operating Supplies
$	(6,685)		001-2100-521.12-00	(Project number was not assigned)
$	(9,813)			

CDBG Fund

$ 20,097		103-0000-389.99-10	Cash Carry Forward
$ 3,422		103-3240-554.83-13	Program Income
$ 7,280		103-3240-554.83-09	CV
$ 9,395		103-3240-554.83-11	CV3
$ 20,097			

SLFRF Fund

$ (2,555,749)		130-0000-389.99-50	(Reverse Entry BAF 23-001 and 23-002)
$ (121,000)	AR4RNG	130-1203-516.64-15	
$ (283,265)	AR4SRV	130-1203-516.64-15	
$ (40,000)	AR3DIG	130-1600-513.56-15	
$ (90,000)	AR4LAP	130-1600-513.56-15	
$ (4,224)	AR22PV	130-2100-521.64-00	
$ (246,184)	AR22TT	130-2201-522.64-00	
$ (50,000)	AR1CMP	130-3230-559.83-03	
$ (731,636)	AR22PO	130-3580-572.63-00	
$ (84,155)	AR22PV	130-2100-521.64-00	
$ (98,253)	AR22HM	130-2100-522.64-00	
$ (634,500)	AR22PT	130-2100-522.64-00	
$ (172,532)	AR22DT	130-3570-538.64-00	
$ (2,555,749)			
$ 2,555,752		130-0000-331.90-02	(SLFRF Revenue Account-Rounded Up)
$ 121,000	AR4RNG	130-1203-516.64-15	
$ 283,265	AR4SRV	130-1203-516.64-15	
$ 40,000	AR3DIG	130-1600-513.56-15	
$ 90,000	AR4LAP	130-1600-513.56-15	
$ 4,224	AR22PV	130-2100-521.64-00	
$ 246,184	AR22TT	130-2201-522.64-00	
$ 50,000	AR1CMP	130-3230-559.83-03	
$ 731,639	AR22PO	130-3580-572.63-00	
$ 84,155	AR22PV	130-2100-521.64-00	(PO #79763-Alan Jay Chevrolet)
$ 98,253	AR22HM	130-2100-522.64-00	(PO #79721-Stryker Medical)
$ 634,500	AR22PT	130-2100-522.64-00	(PO #78900-Sutphen Corporation)
$ 172,532	AR22DT	130-3570-538.64-00	(PO #79816-Nextran of Orlando)
$ 2,555,752			

Fiske Blvd Fund

$	(3,819,586)		303-0000-389.99-50	(Reverse Capital Roll)(BAF 23-002)
$	(2,319,585)	GR2108	303-3570-538.63-01	(Reverse Capital Roll)
$	(1,302,865)	GR2108	303-3570-538.63-08	(Reverse Capital Roll)
$	(197,136)	GR2108	303-3570-538.63-08	(Reverse PO #79493-Tierra)
$	(3,819,586)			
$	2,319,585	GR2108	303-0000-331.90-01	(Fiske FEMA 4337-428-R)
$	1,500,000	GR2108	303-0000-389.99-50	
$	3,819,585			
$	2,319,585	GR2108	303-3570-538.63-01	
$	1,302,865	GR2108	303-3570-538.63-08	
$	197,136	GR2108	303-3570-538.63-08	(PO #79493-Tierra)
$	3,819,586			

Renewal & Replace Fund

Lift Station 1 - L/S #4337-232-R

$	(63,285)		424-0000-389.99-50	(Project Roll Reverse Entry)
$	(612,357)		424-0000-389.99-50	(PO #79254 Reverse Entry)
$	(63,285)	GR2102	424-4055-536.63-06	(Project Roll Reverse Entry)
$	(612,357)	GR2102	424-4055-536.63-06	(PO #79254 Reverse Entry)
$	(675,642)			
$	508,267	GR2102	424-0000-331.35-01	
$	169,422	GR2102	424-0000-389.99-50	
$	677,689			
$	677,689	GR2102	424-4055-536.63-06	

Legislation Details (With Text)

File #:	23-189	**Version:**	1	**Name:**	
Type:	Informational Item			**Status:**	Consent Agenda
File created:	3/8/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	Approval to increase headcount and add the Assistant Fire Marshal position to the Pay Plan for Fiscal Year 2023. (Administrative Services Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	2022-086 (Fire Protection Fee Schedule) (002).pdf DRAFT FY 2023 Pay Grades and Pay Plan (3-14-2023).pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: March 8, 2023
Agenda Date: March 14, 2023
Prepared By: Lorne Stinnett, Human Resources Manager
Through: Tammy Gemmati, Administrative Services Director
Requested Action:
Approval to increase headcount and add the Assistant Fire Marshal position to the Pay Plan for Fiscal Year 2023.

BACKGROUND:

Per City of Cocoa's City Charter, Article IV, Section 3, the City Manager has the authority to fix the compensation of City employees within the pay schedules established by the City Council and personnel policies. City Council is also required to approve an increase to headcount.

City Manager has recommended adding the following position to the City's pay plan:

Current Position	New Position
N/A	Assistant Fire Marshal (GE 12)

This request will increase the City's headcount that was approved in the annual Fiscal Year 2023 Budget by one position. The position of Assistant Fire Marshal will supervise the Fire Inspector and perform fire inspection duties. This additional headcount will increase the number of fire inspections throughout the City. This increased inspection volume will generate additional revenue from the collection of Fire Inspection Fees in accordance with City Council resolution 2022-086. The pay for

the Assistant Fire Marshal is not currently budgeted; however, the additional revenue generated from inspections is expected to offset the cost of the adding the new position. A copy of the proposed pay plan is attached.

STRATEGIC PLAN CONNECTION:

Employees: Will help recruit and retain long-term tenure at the City of Cocoa.

BUDGETARY IMPACT:

Budgeted	No
If not budgeted, is amendment/transfer attached?	N/A

A budget amendment will be done at a later date if necessary.

PREVIOUS ACTION:

At the February 14, 2023 City Council Meeting, City Council approved a revised FY 2023 Pay Plan.

At the September 27, 2022 City Council meeting, City Council approved the pay plan for FY2023 during the adoption of the budget.

At the August 23, 2022 City Council Meeting, City Council approved a new Fire Inspection Fee Schedule and authorized the Fire Department to collect these fees.

RECOMMENDED MOTION:

Approval to increase headcount and add the Assistant Fire Marshal position to the Pay Plan for Fiscal Year 2023.

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RESOLUTION NO. 2022-086

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, RELATED TO FIRE PROTECTION AND PREVENTION; ADOPTING A FIRE PREVENTION FEE SCHEDULE OF FIRE INSPECTION AND PLAN REVIEW FEES IN ACCORDANCE WITH SECTION 6-208 OF THE CITY CODE; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City is subject to the Florida Fire Protection and Prevention Code pursuant to Chapter 633, Florida Statutes ("Fire Code"); and

WHEREAS, in furtherance of implementing the Fire Code, the City's fire department conducts fire inspections of buildings and is authorized by section 633.216(1), Florida Statutes to provide a schedule of fees to pay only the costs of inspections conducted pursuant to the Fire Code and related administrative expenses; and

WHEREAS, section 6-208 of the City Code provides that the City Council may determine, establish, and adopt by resolution any fees necessary for the administration and enforcement of the Fire Protection and Prevention Code; and

WHEREAS, the fees established by this Resolution are necessary to defray some of the costs of inspections and administrative expenses incurred by the City in the administration and enforcement of the Fire Code; and

WHEREAS, the City Council deems it to be in the best interest of the City of Cocoa and its citizens to adopt this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, as follows:

SECTION 1. Recitals. The aforesaid recitals are true and correct and hereby incorporated herein as a material part of this Resolution.

SECTION 2. Inspection and Plans Review Fees Adopted; Fire Department Authorized to Collect. The City Council hereby adopts the Fire Prevention Fee Schedule as specifically set forth in **EXHIBIT "A"** which is attached hereto and fully incorporated herein by this reference. The fire department is hereby authorized to impose and collect said fees as required by this Resolution and applicable provisions of the City Code.

SECTION 3. Repeal of Prior Inconsistent Resolutions. All prior resolutions or prior resolutions inconsistent with this Resolution are hereby repealed to the extent of the conflict.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase, word, or provision of this Resolution and/or Exhibit "A" is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct, and

independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 5. Effective Date. This Resolution shall become effective immediately upon its adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the 23rd day of August, 2022.

Michael C. Blake, Mayor

ATTEST:

Carie Shealy, MMC, City Clerk

Fire Prevention Fee Schedule – 2022

New Construction Permit Fees - Collected upon submittal.	
Fire Permit Application Processing Fee	$25
Plan Review Fees - $100 collected upon submittal – Mandatory Reviews per FSS 553.79	
Construction Value $1,000 or less	$100
All Construction Value Exceeding $1000	$50 + $.0035 X stated value.
Using Stated Construction Value or IBC Building Valuation Data	
Plan Revisions	$5 per page, $50 minimum.
Failure To Schedule Final	$100
Design Review Fee*	$150
Site Plan Review - Standard - Fire	$150
First Revision Free - Subsequent Revisions	$50
Site Plan Review - Minor - Fire	$50
First Revision Free - Subsequent Revisions (Minor Site Plan Revision)	$25
Subdivision Initial Review	$150 + $2 per lot.
First Revision Free - Subsequent Revisions (Subdivision Revision)	$50

- **Design Review Fee - When submitter has more than 5 code-related problems, requires extensive review, shall not apply to minor problems. This is to encourage design professionals to ensure all submitted projects are code compliant.**
- **All building permits (besides 1-2 family dwellings) shall have separate, concurrent review, conducted by certified Firesafety Inspector in accordance with FSS 553.79**
- **Pursuant to s. 553.80, F.S., if the City rejects design documents required by the code three or more times for failure to correct a code violation specifically and continuously noted in each rejection, the City shall impose, each time after the third review the plans are rejected for that code violation, a fee of four times the amount of the proportion of the permit fee attributed to plans review.**

New Construction Inspection Fees	
Fire Specific Systems	
Underground Inspection/Flush	$100
Underground Hydro	$200
Fire Sprinkler Hydro	$200
Fire Sprinkler System Inspection	$150 Per Floor/Riser
Fire Alarm System Inspection/Test	$150 Per Floor
Fire Pump Inspection/Test	$100
Hood Inspection (Light Test & Balance)	$100
Automatic Extinguishing System Inspection/Test	$100
BDA System Inspection/Test	$150
Smoke Evacuation System Inspection/Test	$200 Per Floor
All Reinspection's	Same as flat rate
Inspections To Be Called Minimum of 24 Hours Prior	
All Inspections w/ less than 24 hour notice	Addt'l $75
Building Only – Fire Finals	
Building Final	Included w/ permit
First Reinspection	$0
All Other Reinspection's	$75
Post Temporary-CO Inspections	$75
Inspections To Be Called Minimum of 24 Hours Prior	
All Inspections w/ less than 24 hour notice	Addt'l $75

- Authority to establish a schedule of permit fees – FFPC, NFPA 1, Ch. 1.17 – Permit fees.
- Fire building permit review shall include all new construction, remodeling, renovations, and repairs for all projects requiring a permit, this includes residential structures with three or more dwelling units.
- Post Temporary CO Inspections involve additional inspections occuring after the Building Official has issued a Temporary Certificate of Occupancy (TCO) requiring Fire Prevention Personnel to perform additional inspections after the issuance of the TCO, which have not been calculated into the permit costs.
- Reviews requiring technical assistance on certain projects, that may require an independent third party with extensive expertise in the matter may be performed by the third party reviewer at the expense of the submitter. The reviewer shall provide an evaluation and recommend necessary changes to the proposed design, operation, process or new technology to the fire prevention office. Should it be necessary to exercise this provision, the permit & inspection fees still apply. Authority to require a review by the independent third party is granted under FFPC NFPA 1, Ch 1.15.

- Pursuant to s. 553.80, F.S., if the City finds it necessary, in order to enforce compliance with the Florida Building Code, to conduct any inspection after an initial inspection and one subsequent reinspection of any project or activity for the same code violation specifically and continuously noted in each rejection, the City shall impose a fee of four times the amount of the fee imposed for the initial inspection or first reinspection, whichever is greater, for each such subsequent reinspection.

Existing Building Fire Inspection Fees

- **According to the latest edition of Florida Fire Prevention Code, (FFPC NFPA 1, Ch. 10.2.7.1) all buildings shall be inspected on either an annual, bi-annual, or tri-annual basis according to hazard class. The AHJ shall follow this as a minimum guideline for inspection frequency. The AHJ has the authority to inspect certain occupancies on an annual basis, regardless of hazard class. New businesses applying for a business tax receipt & requesting a fire inspection for their business tax receipt shall also be subject to the fee schedule.**

The following occupancies will be inspected **annually**, if feasible based on personnel restrictions & current events. All other occupancies will be inspected in accordance with NFPA Ch 10.2.7.1.

- Assembly Occupancies
- Occupancies with cooking operations
- Occupancies where individuals sleep. (With exception of one-two family dwellings)
- Any occupancies containing high-hazard processes.
- Storage & industrial & mercantile occupancies exceeding 9,999 sq ft.
- Motor Fuel & Vehicle Repair Facilities
- All other occupancies/buildings exceeding 29,999 sq ft or exceeding 2 stories in height.
- All critical infrastructure facilities & those required by Florida Statute and/or Florida Administrative Code.

Square footage amounts shall be based on total sq. footage documented on Brevard County Property Appraiser's website. Inspection fees are established & adopted by resolution in accordance to the authority given under Cocoa City Code Of Ordinances, Sec 6-208.

Existing Building Fire Inspection Fee Matrix

First Inspection – Charged in accordance with fee schedule based on square footage of the space or building as set forth below.

First **Re-**Inspection (2nd Inspection)

A. Findings – violations on initial inspection are brought into compliance per timeframe set by Fire Inspector or Fire Marshal – **No charge.**
B. Findings – Violations have not been brought into compliance. **Charged in accordance with fee schedule.**

Second **Re-**Inspection (3rd Inspection)

A. Findings – violations on initial inspection are brought into compliance– **Charged in accordance with fee schedule.**
B. Findings – Violations have not been brought into compliance – **Will be charged a fee equal to twice the standard fee for the size of the building, as set forth below.**

All additional reinspections – Will be charged a fee equal to twice the standard fee for the size of the building, as set forth below.

Fire Inspetion fees for all commercial tenant or building occupancies, Fee based on square footage of space or building. Fee shall be paid by the occupant or building owner in absence of occupant payment.

Sq Footage From - To		Fee
1	1,499	$25
1,500	2,999	$35
3,000	7,499	$45
7,500	9,999	$55
10,000	14,999	$65
15,000	19,999	$75
20,000	24,999	$85
25,000	29,999	$95
30,000	34,999	$105
35,000	39,999	$115
40,000	44,999	$125
45,000	49,999	$135
50,000	54,000	$145
55,000	59,999	$155
60,000	64,999	$165
65,000	69,999	$175
70,000	74,999	$185
75,000	79,999	$195
80,000	84,999	$205
85,000	89,999	$215
90,000	94,999	$225
95,000	99,999	$235
100,000	109,999	$245
110,000	119,999	$255
120,000	129,999	$265
130,000	139,999	$275
140,000	149,999	$285
150,000	159,999	$295
160,000	169,999	$305
170,000	179,999	$315
180,000	189,999	$325
190,000	199,999	$335
200,000	209,999	$345
210,000	219,999	$355
220,000	229,999	$365
230,000	239,999	$375
240,000	249,999	$385
250,000	259,999	$395
260,000	269,999	$405
270,000	279,999	$415
280,000	289,999	$425
290,000	299,999	$435
300,000	309,999	$445
Over 309,999, 445 plus $10 per additional 10k sq ft.		

- All individual occupancies below 350 sq ft shall be charged in combination with building shell and shall not be charged for indvidual inspections, except where the inspection is performed separately from

the annual (or bi- or tri-annual) inspection or the inspection is performed to obtain a BTR, then shall be charged in accordance with chart above.

- **All Florida state regulated or licensed facilities requiring an annual fire inspection per Admin Code 69a or FSS 633, such as, but not limited to child care facilities, alcohol and drug treatment facilities & private schools shall be charged an additional $25 per inspection in consideration for additional time to review required fire drills & emergency action plans.**

- **Violations not brought into compliance may be referred to a hearing before the Code Enforcement Board as set forth by City Code (Sec 6-703). Violations posing a serious or imminent threat to public safety or repeat violations may be immediately referred to the Code Enforcement Board, per Cocoa Code of Ordinance Sec 6-703 (d), or other legal or equitable remedies may be pursued.**

- If the owner/tenant is taken to the Code Enforcement Board, in addition to any fees, fines, or penalties charged or imposed by the Code Board and/or Special Magistrate, the Code Board/Special Magistrate may impose enforcement costs. All reinspections following a Code Board Hearing will be charged in accordance with the set fee schedule.

- None of the above language shall be construed to negate or limit the authority of any Firesafety Inspector/Code Enforcement Officer to issue a citation in accordance with Cocoa Code of Ordinances Sec 6-715.

Fireworks Permit/Inspection – $150

Police Dispatch Part-Time - Open Range Plan

	Hourly		Annually		
Grade	Minimum	Maximum	Minimum	Maximum	Positions
PN1	$16.57	$27.27	$ 24,987.56	$ 41,123.16	Dispatcher/Communications Officer P/T

** Annual rates are divisible by 1508

PBA - Open Range Plan

	Hourly		Annually		
Grade	Minimum	Maximum	Minimum	Maximum	Positions
PU6	$16.57	$27.27	$ 34,465.60	$ 56,721.60	Dispatcher/Communications Officer
PU9	$21.67	$33.90	$ 45,073.60	$ 70,512.00	Police Officer
PU12	$28.89	$44.77	$ 60,091.20	$ 93,121.60	Police Sergeant

** Annual rates are divisible by 2080

Police Lieutenant - Open Range Plan

	Hourly		Annually		
Grade	Minimum	Maximum	Minimum	Maximum	Positions
PL1	$36.83	$54.31	$ 76,606.40	$ 112,964.80	Police Lieutenant

** Annual rates are divisible by 2080

DRAFT

IAFF - Open Range Plan

	Hourly		Annually		
Grade	Minimum	Maximum	Minimum	Maximum	Positions
FU8	$14.66	$25.50	$ 38,116.00	$ 66,300.00	Firefighter/EMT
FU9	$17.88	$26.77	$ 46,488.00	$ 69,602.00	Driver/Operators
FU12	$22.29	$31.85	$ 57,954.00	$ 82,810.00	Fire Lieutenant/EMT

** Annual rates are divisible by 2600

Fire District Chief "TU" - Open Range Plan

	Hourly		Annually		
Grade	Minimum	Maximum	Minimum	Maximum	Positions
TU1	$28.75	$42.29	$ 74,750.00	$ 109,954.00	District Fire Chief

** Annual rates are divisible by 2600

DRAFT

LIUNA - Open Range Plan

	Hourly		Annually		
Grade	Minimum	Maximum	Minimum	Maximum	Positions
1	$12.50	$20.00	$ 26,000.00	$ 41,600.00	
2	$13.50	$21.60	$ 28,080.00	$ 44,928.00	Custodial Worker
3	$14.58	$23.33	$ 30,326.40	$ 48,526.40	
4	$15.75	$25.20	$ 32,760.00	$ 52,416.00	Stock Clerk
5	$17.01	$27.22	$ 35,380.80	$ 56,617.60	Apprentice Electrician Customer Service Representative Maintenance Worker I Meter Reader Meter Technician Senior Stock Clerk Utility Field Service Representative
6	$18.37	$29.40	$ 38,209.60	$ 61,152.00	Back-Flow Technician Electrician I Maintenance Worker II Mechanic I Utility Line Locator Utility Mechanic I Valve Operator
7	$19.84	$31.75	$ 41,267.20	$ 66,040.00	Heavy Equipment Operator Industrial Electrician I Sludge Equipment Operator
8	$21.43	$34.29	$ 44,574.40	$ 71,323.20	Apprentice Operator Crewleader Environmental Analyst I Fleet Technician II Maintance Worker III Mechanic II Senior Back-Flow Technician Utility Mechanic II
9	$23.14	$37.03	$ 48,131.20	$ 77,022.40	Certified Operator C Lead Certified Operator C License Electrician II
10	$24.99	$39.99	$ 51,979.20	$ 83,179.20	Certified Operator B Lead Certified Operator B License Industrial Electrician II Instrumentation Technician
11	$26.99	$43.19	$ 56,139.20	$ 89,835.20	Certified Operator A Lead Certified Operator A License Environmental Analyst II

** Annual rates are divisible by 2080

DRAFT

City Council Approval 3-14-2023

General - NonExempt "GH" (Hourly) - Open Range Plan

	Hourly		Annually		
Grade	Minimum	Maximum	Minimum	Maximum	Positions
1	$12.50	$20.00	$ 26,000.00	$ 41,600.00	
2	$13.50	$21.60	$ 28,080.00	$ 44,928.00	School Crossing Guard (Part Time)
3	$14.58	$23.33	$ 30,326.40	$ 48,526.40	Facilities Attendant
4	$15.75	$25.20	$ 32,760.00	$ 52,416.00	Administrative Assistant Community Services Technician Engineering Intern Human Resources Intern (Temporary PT) Police Records Clerk Receptionist Recording Secretary Records Technician
5	$17.01	$27.22	$ 35,380.80	$ 56,617.60	Accounts Payable Clerk Administrative Secretary Customer Service Technician Engineering Representative License/Permit Technician Office Assistant Utility Billing Clerk
6	$18.37	$29.40	$ 38,209.60	$ 61,152.00	Booking Officer-PT Contract Technician Senior Accounts Payable Clerk Victims Advocate
7	$19.84	$31.75	$ 41,267.20	$ 66,040.00	Code Enforcement Officer Environmental Control Coordinator Field Inspector Field Operations Technician Field Service Inventory Technician Help Desktop Support Technician Police Evidence Technician Police Officer Trainee Senior Customer Service Representative Senior Field Service Representative Senior Utilities Field Service Representative UT Administrative Technician Utility Accounting Technician Water Plant Technician
8	$21.43	$34.29	$ 44,574.40	$ 71,323.20	Code Enforcement Coordinator Crime Scene Technician Field Inspector II Human Resources Technician
9	$23.14	$37.03	$ 48,131.20	$ 77,022.40	Asset Management Coordinator Assistant City Clerk Criminal Intelligence Analyst Development Coordinator Executive Secretary Fire Inspector Housing Program Coordinator Junior Staff Accountant Jr. Buyer & Contract Specialist

DRAFT

City Council Approval 3-14-2023

General - NonExempt "GH" (Hourly) - Open Range Plan

	Hourly		Annually		
Grade	Minimum	Maximum	Minimum	Maximum	Positions
					Leisure Services Coordinator Payroll Specialist Utilities Administrative Coordinator Utilities GIS/CAD Technician
10	$24.99	$39.99	$ 51,979.20	$ 83,179.20	Grounds Maintenance Supervisor Leisure Services Supervisor Park & Right of Way Supervisor Plans Examiner Supervisor II
11	$26.99	$43.19	$ 56,139.20	$ 89,835.20	Building Inspector SCADA Analyst I Supervisor III
12	$29.15	$46.65	$ 60,632.00	$ 97,032.00	Electrical Maintenance Supervisor SCADA Analyst II

** Annual rates are divisible by 2080

DRAFT

General - Exempt "GE" (Salary) - Open Range Plan

	Hourly		Annually		
Level	Minimum	Maximum	Minimum	Maximum	Positions
9	$23.14	$37.03	$ 48,131.20	$ 77,022.40	Conservation & Public Relations Officer Redevelopment Coordinator Victim Advocate Coordinator
10	$24.99	$39.99	$ 51,979.20	$ 83,179.20	Grant Writer-Economic Development Specialist Jr. Network Administrator Jr. Systems Administrator Planner Public Information Coordinator Systems Analyst Utilities GIS Coordinator
11	$26.99	$43.19	$ 56,139.20	$ 89,835.20	Customer Service Supervisor Economic Development Specialist Field Services Supervisor GIS Analyst Human Resources Coordinator Inspection Supervisor Senior Buyer & Contracts Agent Staff Accountant Staff Accountant - Bank/Treasury Staff Accountant - Grant Support Service Supervisor Systems Administrator Utility Billing Supervisor
12	$29.15	$46.65	$ 60,632.00	$ 97,032.00	Accounting Supervisor Asst. Fire Marshal Assistant Sewer Field Operations Manager Assistant to the Building Official/Building Inspector Assistant Water Field Operations Manager Chief of Maintenance Chief Operator Chief Operator Wastewater GIS Administrator Public Information Officer Safety & Risk Program Manager Senior Budget Analyst Senior Staff Accountant
13	$31.48	$50.38	$ 65,478.40	$ 104,790.40	Code Enforcement Manager Engineering Supervisor Leisure Services Manager Parks, Project & ROW Manager Utilities Associate Engineer I Water Quality Laboratory Manager
14	$34.00	$54.41	$ 70,720.00	$ 113,172.80	Accounting Manager Assistant to the CM / Public Information Officer Facilities Manager Fleet Manager Human Resources Manager Police Lieutenant (IA)

DRAFT

General - Exempt "GE" (Salary) - Open Range Plan

	Hourly		Annually		
Level	Minimum	Maximum	Minimum	Maximum	Positions
					Purchasing/Contract Manager Senior Network & Security Administrator Streets/Stormwater Manager Systems & Support Manager Utilities Associate Engineer II Utility Customer Service Manager Utility Support Service Manager
15	$36.72	$58.76	$ 76,377.60	$ 122,220.80	City Clerk Field Operations Manager Superintendent Utilities Associate Engineer III Water Treatment Manager
16	$39.66	$63.46	$ 82,492.80	$ 131,996.80	Assistant City Engineer Assistant Fire Chief Assistant Utilities Director Building Official Deputy Finance Director Police Commander Utilities Senior Engineer
17	$45.61	$72.98	$ 94,868.80	$ 151,798.40	Administrative Services Director Chief Technology Officer Comm & Eco Dev Director Community Services Director Engineering Division Manager Finance Director Fire Chief Police Chief Public Works Director/City Engineer
18	$52.45	$83.93	$ 109,096.00	$ 174,574.40	Asst City Manager for Performance & Strategic Initiatives Deputy Director Utilities
19	$60.32	$96.52	$ 125,465.60	$ 200,761.60	Utilities Director

** Annual rates are divisible by 2080
** Frozen positions are shown lined

DRAFT

Legislation Details (With Text)

File #:	23-150	**Version:**	1	**Name:**	
Type:	Contract			**Status:**	Multi-Year Contract
File created:	2/22/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	Approval to Enter into a multi-year contract with NEOGOV a parent company of POWERDMS in the amount of $7,020 for POWERFTO subscription. (Chief of Police)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Cocoa Police - PowerDMS Quote for Signature - Add FTO Module - Apr '23.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: February 22, 2023
Agenda Date: March 14, 2023
Prepared By: Susan L. Lambert, CAP, OM
Through: Evander Collier IV, Chief of Police
Requested Action:
Council Approval to Enter into a multi-year contract with NEOGOV a parent company of POWERDMS in the amount of $7020 for POWERFTO subscription.

BACKGROUND:

The City of Cocoa has been in a multi-year contract with NeoGov for its applicant tracking since December of 2017. Additionally, the Police Department has used PowerDMS, one of NeoGov's products for establishing is policies online

At this time, we are requesting to enter into a multi-year contract for PowerFTO which is a program to digitize our Field Training and Evaluation Program which will help us rate and evaluate our new officers on a computer rather than on a hard copy paper.

STRATEGIC PLAN CONNECTION:

Operational

BUDGETARY IMPACT:

Funds for FY23 will be broken out as follows:

Amount Requested: $1500
Account Number: 001-2100-521.54-00
Account Name: Membership & Publications

Amount Requested: $2340
Account Number: 001-2100-521.56-15
Account Name: IT Related Operating Expenses

Funds for FY24 will be budgeted as follows

Amount Requested: $3180
Account Number: 001-2100-521.54-00
Account Name: Membership & Publications

PREVIOUS ACTION:

None

RECOMMENDED MOTION:

Council Approval to Enter into a multi-year contract with NEOGOV a parent company of POWERDMS in the amount of $7020 for POWERFTO subscription.

PowerDMS
Digital Management Software
A NEOGOV Company

t 800.749.5104 f 407.210.0113
www.powerdms.com
101 S. Garland Ave, Ste 300 Orlando, FL 32801

NEOGOV

Contract Details

Account Number: A-1248
Customer: Cocoa Police Department (FL)
Sales Rep: Taylor Rapp

Order Details

Order #: Q-203098
Order Date: 4/1/2023
Valid Until: 3/20/2023
Subscription Start Date: 4/1/2023
Subscription Term (months): 18

Customer Contact

Billing Contact: Cocoa Police Department (FL)
Wendy Stiteler
Address: 65 Stone Street
Cocoa, FL 32922

Billing Contact Email: wstiteler@cocoapolice.com
Phone: 3216376492
Fax:

Payment Terms

Payment Term: Net 30
PO Number:

Notes:

Subscription Service

YEAR-1

Item	Type	Start Date	End Date	Qty	Total
PowerFTO Subscription	Recurring	4/1/2023	9/30/2023	1	$1,500.00
The PowerFTO Annual subscription provides an agency-wide license for unlimited number of programs and includes; Secure Storage on MS Azure Gov Servers, Mobile Accessibility, Email Notifications, Unlimited Late Form and Trainee Performance Alerts, Ongoing training resources, Ongoing software updates, Access to Industry Partnerships, Ongoing Support & Maintenance.					
PowerFTO Setup	Services	4/1/2023	4/1/2023	1	$2,340.00
The one-time implementation fee to build the site includes access to all online resources to assist in site customization, video tutorials, user-guides, an PowerFTO implementation specialist, and online user training sessions.					
				YEAR-1 TOTAL:	$3,840.00

YEAR-2

Item	Type	Start Date	End Date	Qty	Total
PowerFTO Subscription	Recurring	10/1/2023	9/30/2024	1	$3,180.00
The PowerFTO Annual subscription provides an agency-wide license for unlimited number of programs and includes; Secure Storage on MS Azure Gov Servers, Mobile Accessibility, Email Notifications, Unlimited Late Form and Trainee Performance Alerts, Ongoing training resources, Ongoing software updates, Access to Industry Partnerships, Ongoing Support & Maintenance.					
				YEAR-2 TOTAL:	$3,180.00

Subscription Term Total : | $7,020.00

This price does not include any sales tax.

Additional Terms and Conditions

Payment Terms All invoices issued hereunder are **due upon the invoice due date.** The fees labeled "Year 1 Total" shall be invoiced immediately, and if the Subscription Term is for a period longer than one year, the fees for future years shall be invoiced annually in advance of each 12 month period of the Subscription Term, but regardless of the billing cycle, Customer is responsible for the fees for the entire Subscription Term. The fees set forth in this Service Order are exclusive of all applicable taxes, levies, or duties imposed by taxing authorities and Customer shall be responsible for payment of any such applicable taxes, levies, or duties. All payment obligations are non-cancellable, and all fees paid are non-refundable.

Terms & Conditions Unless otherwise agreed in a written agreement between GovernmentJobs.com, Inc. (D/B/A/ NEOGOV), parent company of PowerDMS, Inc., Cuehit, Inc., Ragnasoft LLC (D/B/A/ PlanIT Schedule), and Design PD, LLC (D/B/A Agency360) (collectively, "**NEOGOV**") and Customer, this Service Order and the services to be furnished pursuant to this Service Order are subject to the terms and conditions set forth here: https://www.neogov.com/service-specifications. The Effective Date (as defined in the terms and conditions) shall be the date set forth below.

t 800.749.5104 f 407.210.0113
www.powerdms.com
101 S. Garland Ave, Ste 300 Orlando, FL 32801

Accepted and Agreed By Authorized Representative of:
Cocoa Police Department (FL)

Signature: _____

Printed Name: _____

Title: _____

Date _____

THE INFORMATION AND PRICING CONTAINED IN THIS SERVICE ORDER IS STRICTLY CONFIDENTIAL

Legislation Details (With Text)

File #:	23-161	**Version:** 1	**Name:**		
Type:	Ordinance		**Status:**	Public Hearing	
File created:	2/28/2023		**In control:**	City Council	
On agenda:	3/14/2023		**Final action:**		
Title:	Consideration on First Reading of Ordinance No. 01-2023 a Zoning Map Amendment consistent with Appendix A, Zoning, Article XXII, changing the Official Zoning Map designation of two (2) parcels totaling ±.64 acres from County Single-Family Residential (RU-1-9) to City Single-Family Residential (RU-1-7). (Public Works Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Ordinance 01-2023 Rezoning Paradise Church County RU-1-9 to RU-1-7.pdf Exhibit A - Paradise Church Site Location (1).pdf Exhibit B - Paradise Zoning Map (1).pdf Exhibit C - FLU Paradise Church (1).pdf Exhibit D - Application 2424558-242457 Paradise Church.pdf Notice of Public Hearing - Zoning Map Text Amendments (2).pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: February 28, 2023
Agenda Date: March 14, 2023
Prepared By: Bryant Smith III, P.E., CFM, Public Works and Interim Growth and Economic Development Director
Through: Bryant Smith III, P.E., CFM, Public Works and Interim Growth and Economic Development Director
Requested Action:
Consideration of Ordinance 01-2023 a Zoning Map Amendment consistent with Appendix A, Zoning, Article XXII, changing the Official Zoning Map designation of two (2) parcels totaling ±.64 acres from County Single-Family Residential (RU-1-9) to City Single-Family Residential (RU-1-7).

BACKGROUND:

Homer Brown, representing Paradise Church, is requesting to amend the Official Zoning Map designation of two (2) parcels, with Parcel IDs 24-36-32-296-7 and 24-36-32-296-8, totaling ±.64 acres, County Single-Family Residential (RU-1-9) to City Single-Family Residential (RU-1-7). The properties involved are as depicted in Exhibit A - Location Map. This change is requested to assign a zoning district for these parcels following their annexation from Brevard County. This annexation was effective as of May 28, 2004 as part of Ordinance 11-2004. At the time of the annexation, these properties were amended to the Low Density Residential future land use classification (Exhibit B).

However, the zoning of the parcels was never amended from their prior zoning classification with the County.

Future Land Use Designation: Current: Low Density Residential
Proposed: Low Density Residential
Zoning District: Current: RU-1-9 (County)
Proposed: RU-1-7
Existing Land Use: Vacant
Council District: District 1 Councilmember Alex Goins

Overview of Surround Area:

	Future Land Use Designations	Zoning Districts	Land Uses
North	Low Density Residential	RU-1-9 (County)	Single-Family Residential
South	Low Density Residential	RU-1-9 (County)	Single-Family Residential
East	Low Density Residential	RU-1-9 (County)	Single-Family Residential
West	Low Density Residential	RU-1-7	Multi-Family Residential

I. Consistency with Code of the City of Cocoa

The Planning & Zoning Division staff have addressed the criteria contained in Appendix A of the City of Cocoa, Article XXII, Section 1(G) as follows:

a. *The proposed change is contrary to the established land use pattern.*

Staff Finding: The proposed rezoning is not contrary to the established land use pattern. Rather, it changes the zoning to match the Low Density Residential future land use classification which was assigned this property at annexation.

b. *The proposed change would create an isolated district unrelated to adjacent and nearby districts.*

Staff Finding: The proposed zoning amendment would not create an isolated district. Rather, it would change the zoning to be in conformance with the Low Density Residential future land use assigned to the property at annexation. This would cause the property to not be isolated relative to the properties with the same zoning and future land use classifications in the area. The property adjacent and to the west of the subject property is already zoned RU-1-7.

c. *The proposed change would materially alter the population density pattern and thereby increase or overtax the load on public facilities such as schools, utilities, streets, access, etc.*

Staff Finding: This zoning change would not materially alter the population density pattern nor increase or overtax local facilities. Rather, it would conform with the low density residential future land use assigned to the property at the time of its annexation from Brevard County. The potential density/intensity for the subject property would remain the same, conforming with the surrounding existing development.

d. *Existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.*

Staff Finding: City of Cocoa zoning district boundaries do not currently exist because the property has been annexed into the City of Cocoa, but maintains Brevard County zoning. A City of Cocoa zoning district should be assigned.

e. *The proposed change would be contrary to the Future Land Use Map and would have an adverse effect on the Comprehensive Plan.*

Staff Finding: The proposed zoning amendment would not be contrary to the Future Land Use Map. Rather, the rezoning to RU-1-7 is consistent with the existing Low Density Residential Future Land Use Map designation. The proposed zoning amendment would be consistent with the policy outlining the general intent of the Low Density Residential future land use classification.

Policy 1.1.2.3: Low Density Residential (LDR). Low-density residential areas are neighborhoods of single family detached housing, limited multiple family attached housing and limited clustered single family attached housing. Institutional, open space and recreational uses are also allowed in this category…

f. *Changed or changing conditions make the passage of the proposed amendment necessary.*

Staff Finding: This rezoning is necessitated by the annexation of this property into the City without a subsequent changing of the zoning classification to match the assigned City future land use classification following annexation.

g. *The proposed change will adversely influence living conditions in the neighborhood.*

Staff Finding: The proposed change will not adversely influence living conditions on the area. The zoning change will be in conformance with the Low-density Future Land use found on this property and in the surrounding area.

h. *The proposed change will create or excessively increase traffic congestion or otherwise affect public safety.*

Staff Finding: This change will not create or excessively increase traffic congestion. It will simply implement the RU-1-7 zoning classification, which is consistent with the Low Density Residential

future land use classification found on this and nearby parcels. No change in intensity is being proposed.

i. *The proposed change will create a drainage problem.*

Staff Finding: No increase in development intensity will be occurring with this rezoning. It will simply be changing the former County zoning to a classification consistent with the City future land use applied at annexation.

j. *The proposed change will seriously reduce light and air to adjacent areas.*

Staff Finding: As has been previously noted, this zoning amendment will not bring any increase in development density. It simply is changing the current County zoning category to a City classification which is compatible with the City future land use applied at annexation.

k. *The proposed change will adversely affect property values in the adjacent areas.*

Staff Finding: This zoning amendment will in no way change the development intensity of this property in a way which could adversely affect property values in the adjacent area. No new uses are proposed through this amendment.

l. *The proposed change will be a deterrent to the improvement or development of adjacent property in accord with existing regulations.*

Staff Finding: The proposed amendment will not be a deterrent to the improvement or development of adjacent properties. Rather, it will bring the property into conformance with the zoning and future land use classifications of other adjacent properties.

m. *The proposed change will constitute a grant of special privilege to an individual owner as contrasted with the public welfare.*

Staff Finding: This rezoning will not grant a special privilege to an individual owner as contrasted to the public welfare. Rather, it will bring the existing property into conformance with the future land use and zoning of the remainder of the properties in this area.

n. *There are substantial reasons why the property cannot be used in accord with existing zoning.*

Staff Finding: The property currently has a County zoning classification. The property could not be developed under this classification, as the property has been annexed into and the City and has its Low Density Residential future land use classification.

o. *Whether the change suggested is out of scale with the needs of the neighborhood of the City.*

Staff Finding: No new density or intensity is proposed, and thus, the surrounding scale of development will not be impacted.

p. *It is impossible to find other adequate sites in the city for the proposed use in districts already permitting such use.*

Staff Finding: The proposed zoning will allow it to match the existing future land use classification, allowing the development already allowed for the property under the Comprehensive Plan.

Consistency with Comprehensive Plan Policies and Objectives
The proposed RU-1-7 zoning designation is consistent with the allowable uses under the Low Density Residential future land use per the City of Cocoa Comprehensive Plan.
Concurrency Management/Adequate Public Facilities
Section 15-22 of the City Code provides for a concurrency management system to ensure public facilities and services needed to support development are available concurrent with the impacts of such development and that development orders and development permits are not issued in a manner that will not result in a reduction in the levels of service below the adopted level of service standards adopted by the City for public facilities and services, as contained in the City's adopted Comprehensive Plan.

Response: This rezoning will in no way impact the level of service for facilities in this area.

STRATEGIC PLAN CONNECTION:

None.

BUDGETARY IMPACT:

None.

PREVIOUS ACTION:

At March 1, 2023 Planning and Zoning Meeting the Planning and Zoning Board recommended approval to the City Council of Ordinance 01-2023 a Zoning Map Amendment consistent with Appendix A, Zoning, Article XXII, changing the Official Zoning Map designation of two (2) parcels totaling ±.64 acres from County Single-Family Residential (RU-1-9) to City Single-Family Residential (RU-1-7).

RECOMMENDED MOTION:

Staff recommends approval on first reading to the City Council of Ordinance 01-2023 a Zoning Map Amendment consistent with Appendix A, Zoning, Article XXII, changing the Official Zoning Map

designation of two (2) parcels totaling ±.64 acres from County Single-Family Residential (RU-1-9) to City Single-Family Residential (RU-1-7).

ORDINANCE NO. 01-2023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING THE OFFICIAL ZONING MAP DESIGNATION OF TWO (2) PARCELS OF REAL PROPERTY, TOTALING 0.64 ACRES, MORE OR LESS, AND GENERALLY LOCATED ON THE SOUTHEAST CORNER OF AURORA STREET AND JACKSON STREET, MORE PARTICULARLY DEPICTED AND LEGALLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FROM BREVARD COUNTY RU-1-9 (SINGLE FAMILY RESIDENTIAL) TO RU-1-7 (SINGLE-FAMILY RESIDENTIAL DISTRICT); PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City is granted the authority, under Section 2(b), Art. VIII of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the Planning and Zoning Board and City Staff of the City of Cocoa have recommended approval of this Ordinance; and

WHEREAS, the City Council of the City of Cocoa held two duly noticed public hearings on the proposed zoning change set forth hereunder and considered findings and advice of staff, the Planning and Zoning Board, citizens, and all interested parties submitting comments and supporting data and analysis, and after complete deliberation, hereby finds the requested change consistent with the City of Cocoa Comprehensive Plan and that sufficient, competent, and substantial evidence supports the zoning change set forth hereunder; and

WHEREAS, the City Council of the City of Cocoa, Florida, hereby finds this ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Cocoa.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COCOA HEREBY ORDAINS, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are hereby fully incorporated herein by reference as legislative findings of the City Council of Council.

Section 2. Zoning Map Amendment. That the Official Zoning Map of the City of Cocoa, as described in City of Cocoa Code, Article VIII, Section 1, is hereby amended to include a change of classification from Brevard County RU-1-9 (Single Family Residential District) to

City of Cocoa RU-1-7 (Single-Family Residential District) for the real property depicted and described on **Exhibit A,** attached and incorporated herein by this reference. City Staff is hereby directed to promptly amend the Official Zoning Map upon the effective date of this Ordinance.

Section 3. **Repeal of Prior Inconsistent Ordinances and Resolutions.** All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 4. **Severability.** If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 5. **Effective Date.** This Ordinance shall become effective immediately upon adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the _____ day of _____, 2023.

_____
MICHAEL C. BLAKE, Mayor

ATTEST:

_____
CARIE SHEALY, MMC
City Clerk

First Reading: _____
Legal Ad Published: _____
Effective Date: _____

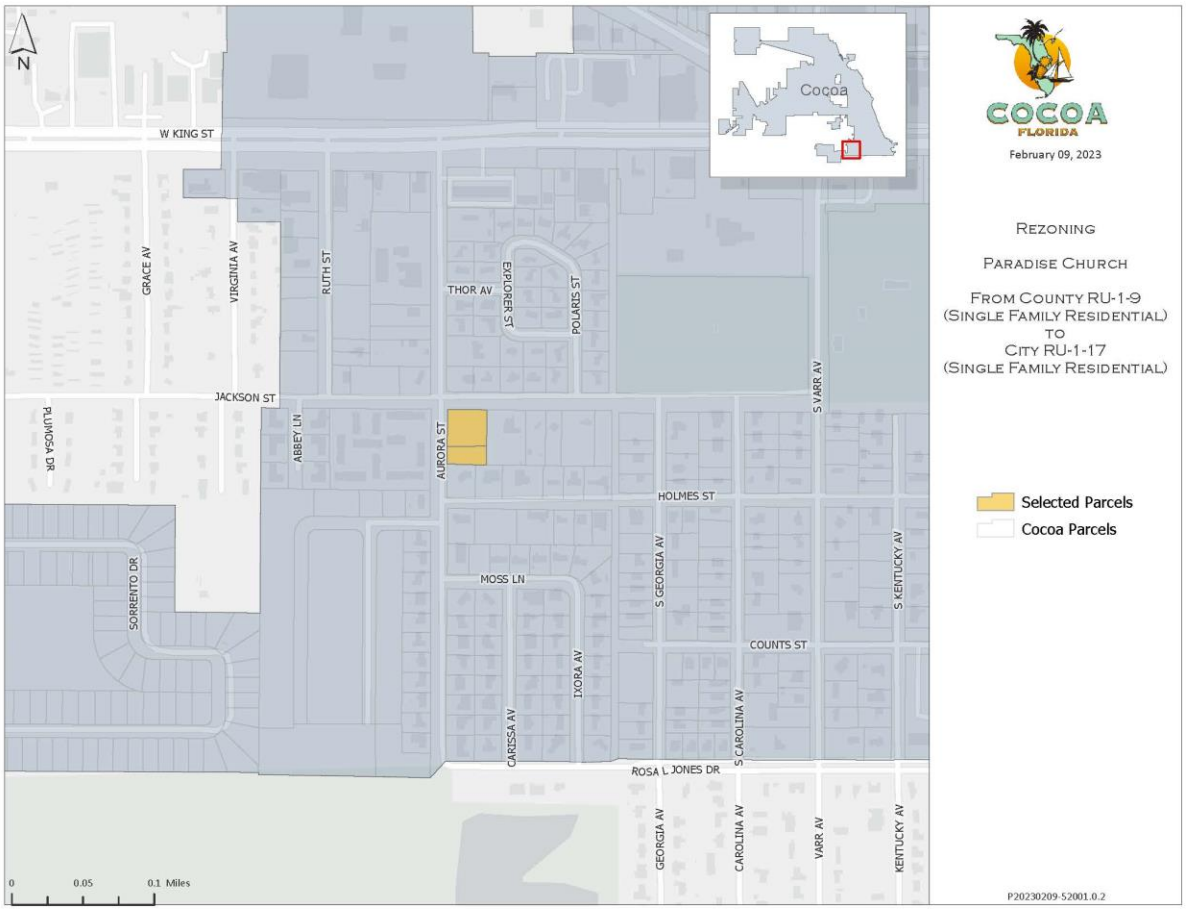
EXHIBIT A

Legal Description of Real Property

Begin at the Northwest corner of Block 6, PINE GROVE PARK, according to the plat of said subdivision recorded in Plat Book 9, Page 24, public records of Brevard County, Florida, and thence go easterly along the north line of said Block 6, a distance of 140 feet to a point; thence south 137.50 feet to a point; thence west 140 feet to a point on the east line of Aurora Street; thence north along the east line of Aurora Street 137.50 feet to the point of beginning.

AND

PART OF BLOCK 6, OF THE SUBDIVISION OF PINE GROVE PARK AS SHOWN BY THE PLAT OF SAID SUBDIVISION RECORDED IN IN PLAT BOOK 9, PAGE 24, OF THE CURRENT PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND MORE FULLY DESCRIBED AS FOLLOWS: BEGIN AT A POINT ON THE WEST LINE OF SAID BLOCK 6 OF SAID PINE GROVE PARK AT A POINT 200 FEET SOUTH OF THE NORTHWEST CORNER OF SAID BLOCK 6, THENCE FOR A FIRST COURSE GO EAST AND PARALLEL TO THE NORTH LINE OF SAID BLOCK 6, A DISTANCE OF 140 FEET TO A POINT; THENCE FOR A SECOND COURSE GO NORTH AND PARALELL TO THE WEST LINE OF SAID BLOCK 6 A DISTANCE OF 62.5 FEET TO A POINT; THENCE FOR A THIRD COURSE GO WEST AND PARALLEL TO THE NORTH LINE OF SAID BLOCK 6, A DISTANCE OF 140 FEET TO A POINT ON THE WEST LINE OF SAID BLOCK 6; THENCE FOR A FOURTH COURSE GO SOUTH ON THE WEST LINE OF SAID BLOCK 6 A DISTANCE OF 62.5 FEET TO A POINT OF BEGINNING.


N
W KING ST
GRACE AV
VIRGINIA AV
RUTH ST
THOR AV
EXPLORER ST
POLARIS ST
S VARR AV
JACKSON ST
PLUMOSA DR
ABBEY LN
AURORA ST
HOLMES ST
SORRENTO DR
MOSS LN
S GEORGIA AV
S KENTUCKY AV
COUNTS ST
IZORA AV
CARISSA AV
S CAROLINA AV
ROSA L JONES DR
GEORGIA AV
CAROLINA AV
VARR AV
KENTUCKY AV
0
0.05
0.1 Miles
Cocoa
COCOA
FLORIDA
February 09, 2023
REZONING
PARADISE CHURCH
FROM COUNTY RU-1-9
(SINGLE FAMILY RESIDENTIAL)
TO
CITY RU-1-17
(SINGLE FAMILY RESIDENTIAL)
Selected Parcels
Cocoa Parcels
P20230209-52001.0.2

Paradise Church Site Location



2/17/2023

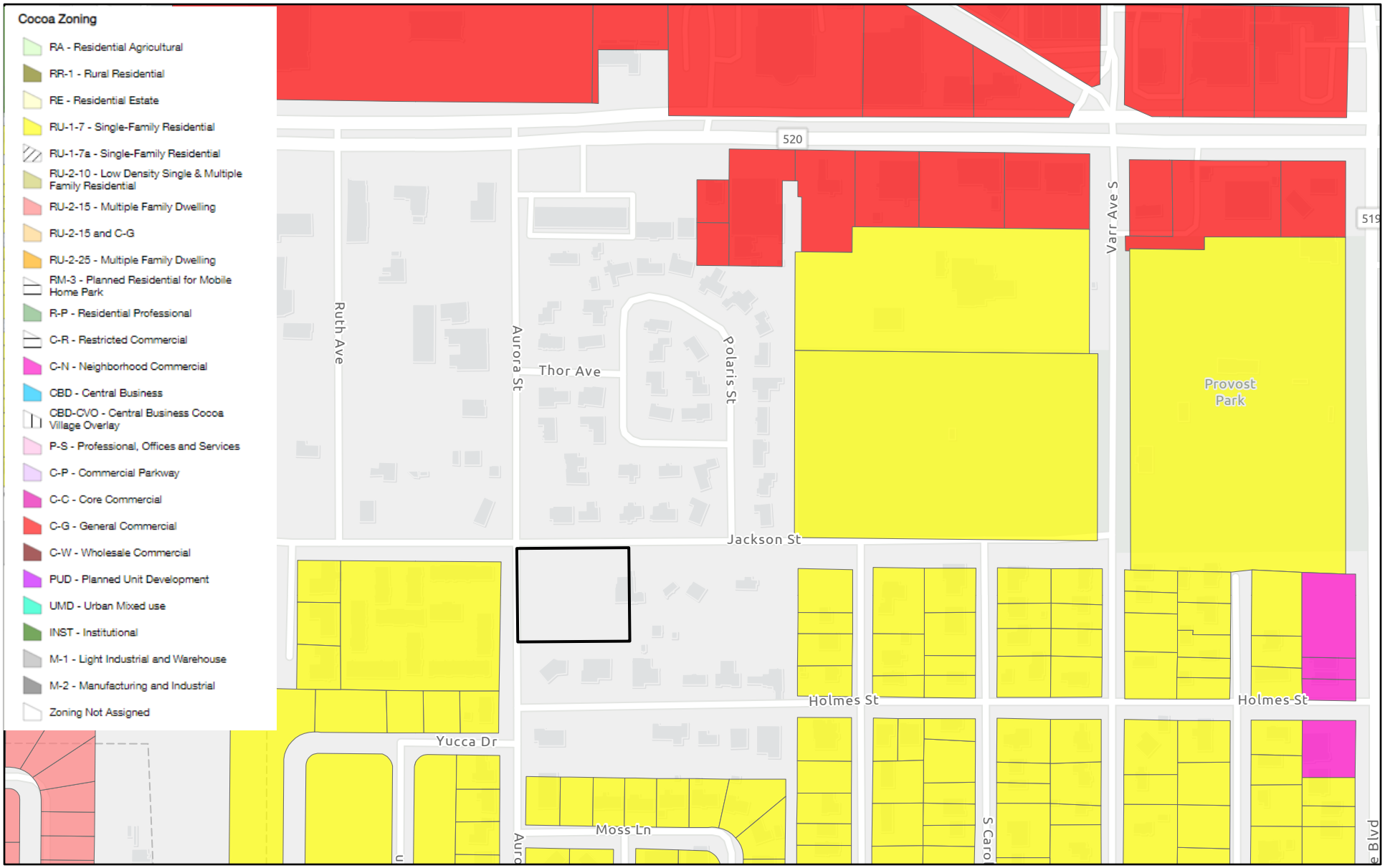
1:1,098

0 0.01 0.01 0.03 mi

0 0.01 0.03 0.05 km

Esri Community Maps Contributors, Brevard County, FDEP, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph,

Paradise Church Zoning Map



2/17/2023

1:4,394

0 0.03 0.07 0.13 mi

0 0.05 0.1 0.2 km

Esri Community Maps Contributors, Brevard County, FDEP, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph,

FORTINET

URL Blocked by FortiClient

cocoa.legistar.com/gateway.aspx

is in the category Unknown

Your FortiClient administrator has blocked this category

FortiClient has been configured to block unrated urls.
This url was categorized as unrated because the FortiGuard url rating service is inaccessible.

Application # **PZ** - _____ - _____

Serving the Community

ZONING MAP AMENDMENT APPLICATION (MAP ONLY)

Community Services Department
Planning and Zoning Division
65 Stone Street
Cocoa, Florida 32922

Phone: (321) 433-8535
Fax: (321) 433-8543
Web: http://www.cocoafl.org

This form is divided into steps, which will help you prepare your application, provide supplemental items, and prepare for the Planning & Zoning Board and City Council hearings. A pre-application meeting with Staff is **required**.

For Office Use Only - Date Received

Stamp Only When Application is Fully Complete

Please TYPE or PRINT this application neatly.

1. **Existing Zoning Category:** _____
2. **Proposed Zoning Category:** Single Residential Family
3. **Existing Future Land Use Category:** LDR
4. **Proposed Future Land Use Category (*if applicable*):** _____
5. **Applicant Information:** ** NOTE: Applicant is the main contact, who must attend the meeting!*

   Company (if applicable): Paradise COOLJC

   Name: Homer R. Brown

   Mailing Address: 992 Demaret Drive

   City: Rockledge State: FL Zip Code: 32955

   Phone #: _____ Fax #: _____

   Mobile #: (321) 698-8822 E-mail: _____

6. **Property Owner Information:** ** Check here if same as Applicant →* ☑
   ** If more than one owner, attach additional sheet with names and addresses.*

   Company (if applicable): _____

   Name: _____

   Mailing Address: _____

   City: _____ State: _____ Zip Code: _____

   Phone #: _____ Fax #: _____

   Mobile #: _____ E-mail: _____

18. **In order to approve a zoning map amendment, the Planning & Zoning Board and City Council must consider and study the criteria listed below (as described in Appendix A, Article XXII, Section 1 (G)(1) of the City of Cocoa Code). Please provide your consideration of the following criteria and any pertinent data and evidence that may be useful to the Planning & Zoning Board and City Council. Use extra sheets if necessary.**

a. **Whether or not the proposed change is contrary to the established land use pattern.**

Proposed change is not contrary to land use pattern

b. **Whether or not the proposed change would create an isolated district unrelated to adjacent and nearby districts.**

Will not create isolated district.

c. **Whether or not the proposed change would materially alter the population density pattern and thereby increase or overtax the load on public facilities such as schools, utilities, streets, access, etc.**

Changes will have little to no effect on public facilities.

9. **Application filing deadline.** The application filing deadline is on the first day of each month at 5:00 pm for public hearings that are held in the following month. For Zoning Map Amendment applications that are submitted concurrently with other applications, the earlier filing deadline shall apply.

10. **Application filing procedure.** This application, together with all required exhibits and attachments, shall be completed and filed with the Planning and Zoning Division.

Public hearings process information – please read this!

11. **Dates and locations of public hearings.** All zoning map amendments require one hearing in front of the Planning & Zoning Board and two hearings in front of the City of Cocoa Council.

12. **Board types.** The Planning & Zoning Board is an advisory board to the City Council and therefore is only authorized to make recommendations. City Council is an authoritative body and is able to make binding decisions.

13. **Presence required at the public hearings.** The applicant or his/her representative must be present to answer any questions concerning the application. If there are extenuating circumstances why the applicant or his/her representative cannot attend, he or she must notify the City in writing prior to the public hearing.

14. **Preparing for the public hearings.** It is the applicant's responsibility to research and know all laws that may be applicable and may affect the outcome of any decision on the application request. The City assumes no responsibility or liability relating to the applicant's failure to research and know all applicable laws including, but not limited to state, federal, and city laws, codes, land development regulations, and the comprehensive plan.

15. **Exhibits at public hearings.** If photographs, documents, maps or other materials are provided to the Board/Council as evidence at the public hearing, the applicant must leave those instruments with the Recording Secretary. By law those instruments automatically become part of the public records and cannot be returned to the applicant.

16. **Witnesses at public hearings.** For the purposes of making a decision on the application, the Board/Council shall only consider testimony of qualified witnesses. A witness is determined by the Board/Council and is generally based on:
    a. The witness has personal knowledge of the fact in which the witness will testify; and/or
    b. In the case of testimony consisting of opinions or inferences, the testimony is qualified as the following:
        1. *Layman witness*: Testimony of a witness other than an expert witness is qualified only if:
            - The witness can readily, and with equal accuracy and adequacy, communicate what he or she perceived to the Board without testifying in the form of opinions or inferences.
            - The opinions and inferences do not require any special knowledge, skill experience or training.
        2. *Expert witness*. Testimony of an expert witness is qualified only if:
            - The subject matter is proper for expert testimony because scientific, technical, or other specialized skill will help the Board understand the evidence being presented, or helps establish a fact in issue.
            - The witness is adequately qualified to express an opinion on the matter.

17. **Planning & Zoning Board vs. City Council actions.** If the Planning & Zoning Board finds that the facts presented in the matter justify approval, it may recommend to approve the request, or a portion thereof, and it may specify any conditions deemed necessary to preserve the intent of the City of Cocoa Code. If the Board finds that the facts presented do not justify approval, it may recommend to deny the request and will specify the reasons for denial. A decision is usually made at the same meeting that the hearing is held. Regardless of the outcome, the application will be forwarded to the City Council for consideration where a final decision can be made.

7. **Property Information:**

Street Address and Location: 206 Aurora St. Cocoa, FL

Parcel ID: * *If more than two Parcel IDs, attach additional sheet with Parcel IDs.*

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Tax Account Numbers: * *If more than two Tax Account #s, attach additional sheet with Tax Account #s.*

☐☐☐☐☐☐☐ ☐☐☐☐☐☐☐

Land Area: _____ square feet or _____ acres

Existing Use(s) on Property: Vacant Lot

Proposed Use(s) on Property: Church

8. **Please submit the following items in order complete the application:**

a. ☐ **Notarized application.**

b. ☐ **List of owners within 500 feet.** A "radius map package" from Brevard County containing a certified mailing list with mailing labels and a map of all property owners of record who reside within a 500-foot radius of the subject property is required for public notice. It is the applicant's responsibility to obtain these materials from the following for a nominal fee:

Brevard County Planning and Zoning, Attn: Graphics.
Brevard County Government Center, Building A
2725 Judge Fran Jamieson Way
Viera, FL 32940
Phone: (321) 633-2060 Fax: (321) 633-2152

c. ☐ **Application fee.** Please make checks payable to the 'City of Cocoa' and submit payment **ONLY** to the Community Services Department. Public mail notice and legal advertising fees must also be paid a few weeks after application submittal. See Schedule of Fees, Charges and Expenses for applicable fees.

d. ☐ **Proof of ownership.** A copy of the most recent recorded warranty deed is required.

e. ☐ **Letter of authorization.** If the applicant is not the property owner, a notarized letter of authorization or agent affidavit is required, unless the applicant is the Attorney of the owner. Each property owner must complete a separate authorization form or other suitable documentation to allow the agent to act upon his/her behalf. A sample "Letter of Authorization" form is available from the City.

f. ☐ **Corporate documents.** If the applicant/owner is representing a company, articles of incorporation which show the applicant/owner is authorized to represent the company is required. A data record printout from the Florida Department of State, Division of Corporations website may also be provided (http://www.sunbiz.org/corpweb/inquiry/search.html).

g. ☐ **Certified boundary survey.** Submit a certified survey showing all existing structures and all proposed structures.

h. ☐ **Legal description.** Submit a typed copy of the legal description. It may be submitted on a computer disk or by e-mail.

i. ☐ **Additional information (optional).** Submit any information that may be helpful in understanding the request. This may include a site plan drawing, photos, sketches, elevations, or letters from adjoining property owners.

d. Whether or not existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.

No, not changing property lines.

e. Whether or not the proposed change would be contrary to the land use plan and would have an adverse effect on the comprehensive plan.

Not Contrary

f. Whether or not changed or changing conditions make the passage of the proposed amendment necessary.

Not necessary

g. **Whether or not the proposed change will adversely influence living conditions in the neighborhood.**

There will be not changes to living conditions in the neighborhood.

h. **Whether or not the proposed change will create or excessively increase traffic congestion or otherwise affect public safety.**

~~After application is approved will request special exception from/with BOA.~~ (HOB)

Traffic flow may increase on Sunday Mornings but facility will be small scale so increased traffic flow will not be significant

i. **Whether or not the proposed change will create a drainage problem.**

No drainage problems.

j. Whether or not the proposed change will seriously reduce light and air to adjacent areas.

N/A

k. Whether or not the proposed change will adversely affect property values in the adjacent areas.

There will be no impact on property values.

l. Whether or not the proposed change will be a deterrent to the improvement or development of adjacent property in accord with existing regulations.

Changes will not deter improvement or development of surrounding properties

m. Whether or not the proposed change will constitute a grant of special privilege to an individual owner as contrasted with the public welfare.

N/A

n. Whether or not there are substantial reasons why the property cannot be used in accord with existing zoning.

Property use is in accordance with existing zoning.

After application is approved, will request special exception with BOA

o. Whether or not the change suggested is out of scale with the needs of the neighborhood.

Not out of scale with needs of neighborhood

p. Whether or not the it is impossible to find other adequate sites in the city for the proposed use in districts already permitting such use.

Because the proposed use is Single Residential Family zoning, it is not impossible to use in other districts within the city

19. Signatures and Notarization.

STATE OF Florida COUNTY OF Brevard. I, Homer R. Brown being first duly sworn, depose and say that:

☐ I am the applicant, or if corporation, I am the officer of the corporation authorized to act on this request.

☐ I am the legal representative of the applicant of this application and a notarized Letter of Authorization form or agent affidavit accompanies this application giving written, unless the applicant is the Attorney representing the owner.

I hereby certify that I have read, completed and understand this application and applicable petition, and understand that if my application and all associated attachments are not complete and accurate in all respects, the application will not be scheduled for a public hearing. I further understand that this application must be complete and accurate prior to the advertising of a public hearing.

Homer R. Brown
(APPLICANT SIGNATURE)

Malak M Hammad
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known ☐ OR Produced Identification ☐

Type of I.D. Produced FL. DL [redacted]

MALAK MUHAMMAD HAMMAD
Notary Public - State of Florida
Commission # GG 934351
My Comm. Expires Nov 24, 2023
Bonded through National Notary Assn.

(NOTARY PUBLIC SIGNATURE)

STATE OF FLORIDA, COUNTY OF BREVARD

Sworn and subscribed to before me this _____ day of _____, 20 _____

FOR OFFICE USE ONLY

Fee of $ _____ in cash ☐ or check ☐ (No. _____) payable to the "City of Cocoa".

Receipt Number: _____

Date: _____

Signature from Planning & Zoning Division:

_____

A Daily Publication By:

FLORIDA TODAY
FLORIDATODAY.com
A GANNETT COMPANY

City of Cocoa Te
65 Stone St
Cocoa, FL 32922

STATE OF FLORIDA COUNTY OF BREVARD

Before the undersigned authority personally appeared said *legal clerk*, who on oath says that he or she is a Legal Advertising Representative of the **FLORIDA TODAY** a daily newspaper published in Brevard County, Florida that the attached copy of advertisement, being a Legal Ad in the matter of

PUBLIC NOTICE

as published in **FLORIDA TODAY** in the issue(s) of

2/14/2023

Affiant further says that the said **FLORIDA TODAY** is a newspaper in said Brevard County, Florida and that the said newspaper has heretofore been continuously published in said Brevard County, Florida each day and has been entered as periodicals matter at the post office in **MELBOURNE** in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 14TH DAY OF FEBRUARY 2023 by legal clerk who is personally known to me

Affiant

Notary State of Wisconsin County of Brown

5.15.23

My commission expires

PUBLICATION COST: $934.40
AD NO: GCI1018406
CUSTOMER NO: 6CI200
PO#: Public Notice

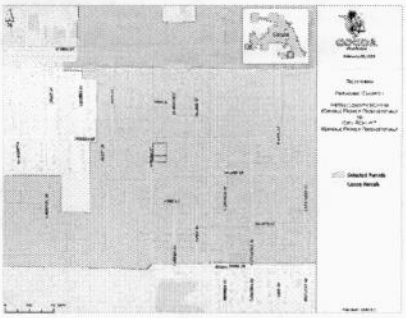
NANCY HEYRMAN
Notary Public
State of Wisconsin

CITY OF COCOA
NOTICE OF PUBLIC HEARING
ZONING MAP AND TEXT AMENDMENTS

NOTICE IS HEREBY GIVEN THAT THE PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY AND THE COCOA CITY COUNCIL PROPOSE TO CONSIDER THE FOLLOWING:

PZ-22-00000006 (Paradise Church | Homer Brown)

A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; amending the Official Zoning Map designation of two (2) parcels of real property, totaling 0.46 acres, more or less, and generally located on the southeast corner of Aurora Street and Jackson Street, more particularly depicted and legally described on Exhibit "A" attached hereto, from Brevard County RU-1-9 (Single Family Residential) to City of Cocoa RU-1-7 (Single-Family Residential District); providing for the repeal of prior inconsistent ordinances and resolutions, severability, and an effective date. Parcel ID numbers: 24-36-32-29-6-7 and 24-36-32-29-6-8.



B. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; CHANGING THE LISTS OF PERMITTED AND SPECIAL EXCEPTION USES IN APPENDIX A, ARTICLE XI OF THE ZONING ORDINANCE OF THE CITY OF COCOA RELATED TO GYM AND FITNESS FACILITIES IN THE RESTRICTED COMMERCIAL, NEIGHBORHOOD COMMERCIAL, GENERAL COMMERCIAL, CENTRAL BUSINESS DISTRICT, COMMERCIAL PARKWAY, WHOLESALE COMMERCIAL, PLANNED UNIT DEVELOPMENT, AND COCOA WATERFRONT OVERLAY DISTRICTS; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

PLANNING & ZONING BOARD/ LOCAL PLANNING AGENCY PUBLIC HEARING WILL BE HELD ON

March 1, 2023

CITY COUNCIL 1st PUBLIC HEARING WILL BE HELD ON

March 14, 2023

ALL HEARINGS WILL TAKE PLACE AT 6:00 P.M. OR SOON THEREAFTER IN THE COCOA CITY HALL COUNCIL CHAMBERS LOCATED AT 65 STONE STREET, COCOA, FL

General Notice Information:

This is a public meeting. Interested parties are hereby advised that they may appear at said meeting and be heard. The facility wherein this public meeting will be held is accessible to the physically handicapped. In accordance with the Americans With Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk of the City of Cocoa, listed below, at least 48 hours prior to the meeting: Carie Shealy, City Clerk, 65 Stone Street, Cocoa, by telephone at (321) 433-8484 or via email at cshealy@cocoafl.org.

Pursuant to Section 286.0105, Florida Statutes, the City hereby advises the public that if a person decides to appeal any decision made by the BOA, P&Z Board/LPA or City Council with respect to any matter considered at its meeting or hearing, that person will need a record of the proceedings and for such purpose, affected persons may need to assure that a verbatim record of the proceedings is made, and such record shall include the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission into evidence of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals otherwise not allowed by law.

The BOA, PZ Board/LPA and City Council reserve the right to continue or postpone hearings to a date certain without re-advertising.

Public Participation Information:

Members of the public may view the meeting agenda, ordinances, project applications, supporting documents, and staff reports on the City's website at the following link prior to attending or commenting:

- City of Cocoa meeting calendar at https://cocoa.legistar.com/Calendar.aspx

Documents pertaining to the above may also be inspected at the Community Services Department, between 8:00 a.m. and 5:00 p.m., Monday through Friday, or by phoning (321) 433-8451.

Interested persons may submit their written comments or questions prior to the meeting through Email at meetings@cocoafl.org, or via E-comments through the online agenda at the link above. Any electronic comments submitted will be made part of the meeting record.

Viewing In Real Time. Interested persons are encouraged to view and listen to the hearings live by accessing the meetings at the following internet address:

- City of Cocoa meeting calendar at https://cocoa.legistar.com/Calendar.aspx

However, the City is not responsible for technical difficulties that may occur while attempting to view or listen to the meeting on the internet.

FT-GCI1218406-01

Legislation Details (With Text)

File #:	23-132	**Version:**	1	**Name:**	
Type:	Report			**Status:**	Council Busines
File created:	2/17/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	Approve the current Code Enforcement Lien for the property located at 714 Johnson St., be reduced to $2,000.00 as recommended by the Code Enforcement Board. (Chief of Police)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	LR - 714 Johnson St..pdf Staff Report for Lien Reduction-714.pdf Cost Affidavit Form -714johnson.pdf BCPAO.pdf Finding of Fact Order.pdf Order Imposing.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: February 21, 2023
Agenda Date: March 14, 2023
Prepared By: Darla Crowl, (Code Enforcement Coordinator)
Through: Evander Collier IV (Police Chief)
Requested Action:
Approve the current Code Enforcement Lien for the property located at 714 Johnson St., be reduced to $2,000.00 as recommended by the Code Enforcement Board.

BACKGROUND:

CASE # #16-772

The Code Enforcement Board held a public hearing on **4/17/2017**, at which time the Board found the owner, **Nathaniel Phillips** in violation of the following:

Sec. 6-1003 (a) Exterior structure, Roof Damage
Sec. 6-1003 (b) Protective treatment, Roof
Sec. 6-1003 (d) Structural Member, wall and foundation
Sec. 6-1003 (f) Exterior structure, exterior walls
Sec. 6-1003 (h) Decorative features, trim and corner pieces

Sec. 6-1003 (m) Window, door and frame, Window damage
Sec. 6-1003 (m) (1) Window Glazing, Window damage
Sec. 6-1003 (m) (2) window operational, Window damage
Sec. 6-1003 (n) Insect screens, Screen damage
Sec. 6-1003 (o) Doors, Exterior door damage
Sec. 6-1004 (c) Maintenance of interior structure, Ceiling, walls, and floor
Sec. 6-1204 (a-d) Water systems, Hot water heater
Sec. 6-1304 (a-c) Electrical equipment, exposed electrical wires
Sec. 6-900 (b) (4) a-c, Maintenance of structure and grounds
Sec. 6-1203 (a-c) Plumbing fixtures, Sink, toilet, and shower

The Code Enforcement Board provided the owner sufficient time to correct said violation. Therefore, consistent with the Code Enforcement Board's Order a lien was imposed against the property effective **6/17/2016.** The lien ran at **$250.00** per day from **6/17/2016** until compliance was achieved on **3/30/2018**. Code records show onsite inspections were conducted by Officer Murdick and Gonzalez, and I. The case was closed leaving a fine of $62,780.00.The current owner, **Nathaniel Phillips**, is requesting that the lien be reduced to **$2,500 or Staff's Hard Costs**

Staff utilized the following factors in making its recommendation to reduce the lien:

- Whether the current owner owned the property at the time the violation(s) occurred; **No**
- Applicant resides at the property: **No, owner is deceased**
- The number of violations related to the subject lien; **Fifteen**
- Number of Inspections performed: **9**
- Property Taxes: **Taxes paid through 2022**
- Other Liens: **Records show no outstanding liens on the property. No Water Liens**
- Property Inspection: **2/14/2023 and was incompliance before Code Board Hearing. An inspection will occur prior to the Council Meeting**

The current market value of the subject property; the current market value is **$15,000** according the Brevard County Property Appraiser as a vacant residential lot. Property was cited with a home.

Staff submits their cost sheet and the in the total amount of **$1681.98**

Staff's recommendation is that the fine/lien be reduced to **$1681.98** which is the cost of staff to prosecute this case**.** This reduction is based on the gravity of the violations, the length of time it took the property to come into compliance, and the total amount of the City's Cost.

STRATEGIC PLAN CONNECTION:

Crime, Image and Community Development

BUDGETARY IMPACT:

None

PREVIOUS ACTION:

The Code Enforcement Board, at its regular meeting on February 16, 2023, recommended that the lien be reduced to $2,000.00

RECOMMENDED MOTION:

Approve the current Code Enforcement Lien for the property located at 714 Johnson St., be reduced to $2,000.00 as recommended by the Code Enforcement Board

Application # CE - 16 - 772

LIEN REDUCTION APPLICATION

Cocoa Police Department
Code Enforcement Division
1226 W King Street
Cocoa, Florida 32922
Phone; (321) 433-8508

This application must be completed entirely. The property must be in compliance per the City Code Section 6-707(d), if the property does not meet the guidelines of the City Code the Lien Reduction Application will not be scheduled for a hearing before the Code Enforcement Board.

This form is divided into steps which will help you prepare your request, provide the necessary information, and prepare for the Code Enforcement Board and City Council hearing.

For Office Use Only - Date Received
RECEIVED
DEC 30 2022
BY:
Stamp Only When Application is Fully Complete

Please TYPE or PRINT this application neatly.

1. **Date:** 12/23/2022

2. **Applicant Information:** ** NOTE: Applicant is the main contact, who must attend the meeting.*

Company (if applicable): Axis Title, LLC

Name: Jessica Milian and or Jeniffer Wessel

Mailing Address: 14201 W Sunrise Blvd #104

City: Sunrise State: FL Zip Code: 33323

Phone #: 954-526-2233 Fax #: 866-443-2060

Mobile #: 954-901-4077 E-mail: admin@axisfl.com

3. **Property Owner Information:** ** Check here if same as Applicant →* ☐
** If more than one owner, attach additional sheet with names and addresses.*

Company (if applicable):

Name: The Estate of Ilford Nathaniel Phillips

Mailing Address: 65 West 180 Street

City: Bronx State: NY Zip Code: 10453

Phone #: 718-724-9306 Fax #:

Mobile #: E-mail: godismyheart@gmail.com

4. **Information for property on which lien occurs:**

Street Address and Location: 714 Johnson Street

Parcel ID:

2 4 - 3 6 - 3 3 - 5 6 - 0 0 0 0 6 . 0 -

0 0 0 4 . 0 0

Tax Account Number:

2 4 2 6 2 1 3

Existing Use(s) on Property: Vacant Land

Proposed Use(s) on Property: buyer will build house

(If residential – (circle one) **owner occupied** or **rental**), if rental does property owner anticipate accepting any state or federal rental subsidies?
N/A

Nature of Violation(s): weeds, demolitions, interior structure

Date Fine or Lien Imposed: 11/17/2016 Amount of Fine: 62,760.00 per day

Have the violation(s) on the subject property been corrected? Yes / No (Circle one)

Date upon which the subject property was brought into compliance: Dec 2021

5. **Please provide the following information:**

Code enforcement case number: 16-0772

Were you the property owner at the time the lien was imposed? Yes / No (Circle one) If so, how many days did it take from the board order to the date compliance was achieved? n/a

If you were not the property at the time the violation occurred, were you aware of the lien when you purchased the property? Yes / No / NA (Circle one) If the property was not in compliance at the time you purchased the property how many days from the time of purchase did it take for you to come into compliance? n/a

Did you receive the Notice of Violation issued by the Code Enforcement Division: Yes / No (Circle one)

Did you receive the Finding of Facts issued by the Code Enforcement Board: Yes / No (Circle one)

The factual basis upon which the application for reduction of the lien should be granted:
The property has been through a probate.
It was now inherited by the personal representative and she would like to sell the property.
She was not aware of the violations, but still brought property into compliance.

The reasons, if any, compliance was not obtained prior to the order of penalty or fine being recorded:

The estate inherited the property and was not aware of any steps her Father took to bring the property into compliance.

Amount you are requesting that the lien be reduced to: $2,500

Please provide any other information deemed pertinent to this request, including but not limited to the circumstances that exist which would warrant the reduction or forgiveness of the penalty or fine. Include documentation of any financial investment made to physically improve the property:

The owner who inherited the property was out of state and didn't know the conditions. She has been maintaining the property since taking ownership but was not in a position to payoff the lien.

Are there any other properties within the jurisdictional limits of the City of Cocoa owned by the applicant and/or owners of the subject property on which code violations have been alleged, of which the case is still active, or a Finding of Facts has been entered by the Code Enforcement Board, if so please provide the address, the nature of violation and the status of such:

None

6. **Please submit the following items in order complete the application:**

   a. ☒ **Notarized application.**

   b. ☒ **Reimbursement to City for recording costs at time of application.** Pursuant to Section 6-707(c), Code of the City of Cocoa, at the time of application, payment to the city in the amount necessary to reimburse the City for its costs associated with processing and recording the order imposing a penalty or fine and the requested satisfaction or release of lien. Please make checks payable to the 'City of Cocoa' and submit payment ONLY to the Community Services Department. Please note that these costs are non-refundable without regard for the final disposition of the application for satisfaction or release of lien. **The application fee is $20.00 and will need to be paid at the time the application is submitted.**

   c. ☒ **Letter of authorization.** If the applicant is not the property owner, a notarized letter of authorization or agent affidavit is required, unless the applicant is the Attorney of the owner. Each property owner must complete a separate authorization form or other suitable documentation to allow the agent to act upon his/her behalf.

   d. ☐ **Corporate documents.** If the applicant/owner is representing a company, articles of incorporation which show the applicant/owner is authorized to represent the company is required. A data record printout from the Florida Department of State, Division of Corporations website may also be provided (http://www.sunbiz.org/corpweb/inquiry/search.html).

   e. ☒ **Additional information (optional).** Submit any information that may be helpful in understanding the request. This may include photos, sketches, elevations, or letters from adjoining property owners.

7. **Application Filing Procedure.** This application, together with all required exhibits and attachments, shall be completed and filed with the Code Enforcement Division by the third Friday of each month at 5:00 pm in order to be scheduled for public hearing for the following month.

8. **Procedure per City Code.** Section 6-707 states the City Lien Reduction rules and procedures for applying for a reduction. It is the applicant's responsibility to read and understand the rules and procedures that are located on page 6 of the Lien Reduction Application

9. **Board Action.** An Inspection of the property must be performed to be scheduled at the Code Board. Following a presentation by staff and testimony offered by the applicant, the Code Enforcement Board will formulate a recommendation to City Council.

10. **City Council Action.** An Inspection of the property must be performed to be scheduled before council. Following the Code Enforcement Board making a recommendation to the City Council, staff will schedule the item for the next available City Council regular meeting.

11. **Inspections.** I agree to allow Code Enforcement to inspect my property and give consent to walk the property before proceeding with this reduction ☒ YES ☐ NO

Signature below will also show that consent to inspect was given by the property owner or representitive.

12. Signatures and Notarization.

STATE OF Florida COUNTY OF Broward. I, Jessica Millan being first duly sworn, depose and say that:

☑ I am the applicant, or if corporation, I am the officer of the corporation authorized to act on this request.

☐ I am the legal representative of the applicant of this application and a notarized Letter of Authorization form or agent affidavit accompanies this application giving written, unless the applicant is the Attorney representing the owner.

I hereby certify that I have read, completed and understand this Application and understand that if my application and all associated attachments are not complete and accurate in all respects, the application will not be scheduled for a public hearing. I further understand that this application must be complete and accurate prior to the advertising of a public hearing.

TATIANA TORRES
Notary Public - State of Florida
Commission # HH 035308
My Comm. Expires Aug 23, 2024
Bonded through National Notary Assn.

(APPLICANT SIGNATURE)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known ☑ OR Produced Identification ☐

Type of I.D. Produced _____

(NOTARY PUBLIC SIGNATURE)

STATE OF FLORIDA, COUNTY OF ~~BREVARD~~ Broward

Sworn and subscribed to before me this 23 day of December, 20 22

Public Hearing Process Information.

It is the responsibility of the Applicant to read the Lien Reduction Application to its entirety. Please keep this sheet from your application for your records. At any time through this process you have any questions or concerns, please contact the Code Enforcement Division at 321-433-8508.

1. **Public hearing date and location.** All regularly scheduled hearings are held on the third Thursday of each month at 6:00pm in the Cocoa City Hall Council Chambers located at 65 Stone Street, Cocoa, Florida unless otherwise notified.

2. **Presence required at the public hearings.** The applicant or his/her representative must be present to answer any questions concerning the request. If there are extenuating circumstances why the applicant or his/her representative cannot attend, he or she must notify the City in writing prior to the public hearing.

3. **Preparing for public hearing.** It is the applicant's responsibility to research and know all laws that may be applicable and may affect the outcome of any decision on the applicant's request.

4. **Format of public hearing.** The public hearing before the Code Enforcement Board is quasi-judicial in nature. *State and local law strictly prohibits applicants and/or interested parties from participating in ex-parte communications with Board members in person, by phone, e-mail, or in writing before the application is considered at a public hearing.* Applicants are encouraged to review and copy the quasi-judicial rules and procedures used by the Code Enforcement Board before the public hearing date. A copy may be obtained from the City Clerk's Office.

5. **Exhibits at public hearing.** If photographs, documents, maps or other materials are provided to the Board as evidence at the public hearing, the applicant must provide a copy to the Recording Secretary, City Staff, and the Code Enforcement Board for examination. One copy of any exhibits and/or evidence shall be provided, by law those instruments automatically become part of the public records and cannot be returned to the applicant.

6. **Witnesses at public hearing.** For the purposes of making a decision on the application, the Board shall only consider testimony of qualified witnesses. A witness is determined by the Board and is generally based on:

   a. The witness has personal knowledge of the fact in which the witness will testify; and/or

   b. In the case of testimony consisting of opinions or inferences, the testimony is qualified as the following:

      1. Layman witness: Testimony of a witness other than an expert witness is qualified only if:

         - The witness can readily, and with equal accuracy and adequacy, communicate what he or she perceived to the Board without testifying in the form of opinions or inferences.

         - The opinions and inferences do not require any special knowledge, skill experience or training.

      2. Expert witness. Testimony of an expert witness is qualified only if:

         - The subject matter is proper for expert testimony because scientific, technical, or other specialized skill will help the Board understand the evidence being presented, or helps establish a fact in issue.

         - The witness is adequately qualified to express an opinion on the matter.

Sec. 6-707. - Satisfaction or release of code enforcement lien. (NOTE: this is not the code section in its entirety)

(b) ***Application.*** The application shall be executed under oath and sworn to in the presence of a notary public.

(c) ***Reimbursement to city for recording costs at time of application.*** The violator shall submit, at the time of application, payment to the city in the amount necessary to reimburse the city for its costs associated with recording the order imposing a penalty or fine and the requested satisfaction or release of lien. These costs are non-refundable, without regard for the final disposition of the application for satisfaction or release of lien.

(d) ***Processing of application by Code Enforcement Manager or Chief of Police.*** Upon receipt of the application for satisfaction or release of lien and payment provided above, the community development director shall confirm through the code enforcement department that the violation which resulted in the order imposing penalty or fine has been brought into compliance. If the violation has been brought into compliance and there is no current code violation upon the property in question, the community development director shall place the application upon the agenda of the next meeting of the code enforcement board.

(e) ***Code enforcement board hearing.*** At the hearing before the code enforcement board, the board shall review and consider the application for satisfaction or release of lien, provide the violator with an opportunity to address the board regarding the application for satisfaction or release of lien, and to take the testimony of other interested parties, including but not limited to city staff.

Review and recommendation. Upon review of the application and any testimony presented, the code enforcement board shall recommend to the city council approval, approval with conditions, or denial of the application for satisfaction or release of lien.

The code enforcement board, in determining its recommendation, shall consider the following factors:

(1) The gravity of the violation;

(2) The time in which it took the violator to come into compliance;

(3) The accrued amount of the code enforcement fine or lien;

(4) Any previous or subsequent code violations;

(5) Any financial hardship; and

(6) Any other mitigating circumstance which may warrant the reduction or satisfaction of the penalty or fine.

(f) ***Presentation to city council.*** After a recommendation has been rendered by the code enforcement board, the community development director shall place the application for satisfaction or release of lien upon the agenda of the next regularly scheduled city council meeting. The city council may take action solely based upon the sworn application and recommendation of the code enforcement board; or it may, in its discretion, provide the violator with an opportunity to address the council in regard to the application for satisfaction or release of lien.

City Council action. The city council may approve, approve with conditions, or deny the application to satisfy or release of lien. If the city council approves the application to satisfy or release the lien and the approval is conditioned upon the violator paying a reduced penalty, fine, or any other condition, the satisfaction or release of lien shall not be prepared or recorded until the condition(s) placed by the council have been satisfied.

(g) ***Compliance with city council conditions.*** The violator shall have thirty (30) days in which to comply with the conditions imposed by the city council. Failure of the violator to comply will result in the automatic denial of the application for satisfaction or release of lien.

(h) ***Effect of denial on application for subsequent lien reduction or forgiveness.*** If the application is denied or if the application is automatically denied due to the failure of the violator to comply with the conditions imposed by the city council, the violator shall thereafter be barred from applying for a subsequent reduction or forgiveness of the lien for a period of one (1) year from the date of denial. During the one-year period, the lien may only be satisfied and released upon full payment of the fine or penalty imposed in accordance with this chapter.

(Ord. No. 16-06, § 2, 5-9-06)

Authentisign ID: A2360E49-D44F-ED11-ADE6-0050F26450A3

Vacant Land Contract

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1. **Sale and Purchase ("Contract"):** The Estate of Ilford N. Phillip Monique A. James and Florence Barnet-Levy ("**Seller**") and Sherri Le Pelrine ("**Buyer**") (the "parties") agree to sell and buy on the terms and conditions specified below the property ("Property") described as:
Address: 714 Johnson Street Cocoa FL 32922
Legal Description:
JOHNSONS SUBD LOT 4 BLK 6

SEC ___/TWP /___/RNG ___ of Brevard County, Florida. Real Property ID No.: 24-36-33-56-00006.0-0004.00 including all improvements existing on the Property and the following additional property:

FBL MAJ SLP 10/13/22

Purchase Price: (U.S. currency) ..... $ 20,000.00
All deposits will be made payable to "Escrow Agent" named below and held in escrow by:
Escrow Agent's Name: AXIS TITLE, LLC.
Escrow Agent's Contact Person: Jennifer Wessel
Escrow Agent's Address: 14201 W. Sunrise Blvd., #104, Sunrise FL 33323
Escrow Agent's Phone: 954-526-2233 email: Jennifer@AxisFL.com
Escrow Agent's Email:

(a) Initial deposit ($0 if left blank) (**Check if applicable**)
☐ accompanies offer
☒ will be delivered to Escrow Agent within 3 days (3 days if left blank)
after Effective Date ..... $ 1,000.00

(b) Additional deposit will be delivered to Escrow Agent (**Check if applicable**)
☐ within _____ days (10 days if left blank) after Effective Date
☐ within _____ days (3 days if left blank) after expiration of Due Diligence Period ..... $ _____

(c) Total Financing (see Paragraph 6) (express as a dollar amount or percentage) ..... $ 0%

(d) Other: _____ ..... $ _____

(e) Balance to close (not including **Buyer's** closing costs, prepaid items, and prorations) to be paid at closing by wire transfer or other Collected funds ..... $ 19,000.00

(f) ☐ (Complete only if purchase price will be determined based on a per unit cost instead of a fixed price.) The unit used to determine the purchase price is ☐ lot ☐ acre ☐ square foot ☐ other (specify): _____ prorating areas of less than a full unit. The purchase price will be $_____ per unit based on a calculation of total area of the Property as certified to **Seller** and **Buyer** by a Florida licensed surveyor in accordance with Paragraph 8(c). The following rights of way and other areas will be excluded from the calculation: _____

3. **Time for Acceptance; Effective Date:** Unless this offer is signed by **Seller** and **Buyer** and an executed copy delivered to all parties on or before 9/30/2022, this offer will be withdrawn and **Buyer's** deposit, if any, will be returned. The time for acceptance of any counter-offer will be 3 days after the date the counter-offer is delivered. **The "Effective Date" of this Contract is the date on which the last one of the Seller and Buyer has signed or initialed and delivered this offer or the final counter-offer.**

4. **Closing Date:** This transaction will close on 12/30/2022 ("Closing Date"), unless specifically extended by other provisions of this Contract. The Closing Date will prevail over all other time periods including, but not limited to, Financing and Due Diligence periods. However, if the Closing Date occurs on a Saturday, Sunday, or national legal holiday, it will extend to 5:00 p.m. (where the Property is located) of the next business day. In the event insurance underwriting is suspended on Closing Date and **Buyer** is unable to obtain property insurance, **Buyer** may postpone closing for up to 5 days after the insurance underwriting suspension is lifted. If this transaction does not close for any reason, **Buyer** will immediately return all **Seller** provided documents and other items.

5. **Extension of Closing Date:** If Paragraph 6(b) is checked and Closing Funds from Buyer's lender(s) are not available on Closing Date due to Consumer Financial Protection Bureau Closing Disclosure delivery requirements

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("CFPB Requirements), if applicable, then Closing Date shall be extended for such period necessary to satisfy CFPB Requirements, provided such period shall not exceed 10 days.

6. **Financing:** (**Check as applicable**)

(a) ☒ **Buyer** will pay cash for the Property with no financing contingency.

(b) ☐ This Contract is contingent on **Buyer** qualifying for and obtaining the commitment(s) or approval(s) specified below ("Financing") within _____ days after Effective Date (Closing Date or 30 days after Effective Date, whichever occurs first, if left blank) ("Financing Period"). **Buyer** will apply for Financing within _____ days after Effective Date (5 days if left blank) and will timely provide any and all credit, employment, financial, and other information required by the lender. If **Buyer**, after using diligence and good faith, cannot obtain the Financing within the Financing Period, either party may terminate this Contract and **Buyer's** deposit(s) will be returned.

(1) ☐ **New Financing: Buyer** will secure a commitment for new third party financing for $ _____ or _____% of the purchase price at (**Check one**) ☐ a fixed rate not exceeding _____% ☐ an adjustable interest rate not exceeding _____% at origination (a fixed rate at the prevailing interest rate based on **Buyer's** creditworthiness if neither choice is selected). **Buyer** will keep **Seller** and Broker fully informed of the loan application status and progress and authorizes the lender or mortgage broker to disclose all such information to **Seller** and Broker.

(2) ☐ **Seller Financing: Buyer** will execute a ☐ first ☐ second purchase money note and mortgage to **Seller** in the amount of $_____, bearing annual interest at _____% and payable as follows: _____

The mortgage, note, and any security agreement will be in a form acceptable to **Seller** and will follow forms generally accepted in the county where the Property is located; will provide for a late payment fee and acceleration at the mortgagee's option if **Buyer** defaults; will give **Buyer** the right to prepay without penalty all or part of the principal at any time(s) with interest only to date of payment; will be due on conveyance or sale; will provide for release of contiguous parcels, if applicable; and will require **Buyer** to keep liability insurance on the Property, with **Seller** as additional named insured. **Buyer** authorizes **Seller** to obtain credit, employment, and other necessary information to determine creditworthiness for the financing. **Seller** will, within 10 days after Effective Date, give **Buyer** written notice of whether or not **Seller** will make the loan.

(3) ☐ **Mortgage Assumption: Buyer** will take title subject to and assume and pay existing first mortgage to _____

LN#_____ in the approximate amount of $_____ currently payable at $_____ per month, including principal, interest, ☐ taxes and insurance, and having a ☐ fixed ☐ other (describe) _____ interest rate of _____% which ☐ will ☐ will not escalate upon assumption. Any variance in the mortgage will be adjusted in the balance due at closing with no adjustment to purchase price. **Buyer** will purchase **Seller's** escrow account dollar for dollar. If the interest rate upon transfer exceeds _____% or the assumption/transfer fee exceeds $_____, either party may elect to pay the excess, failing which this Contract will terminate; and **Buyer's** deposit(s) will be returned. If the lender disapproves **Buyer**, this Contract will terminate; and **Buyer's** deposit(s) will be returned.

7. **Assignability:** (**Check one**) **Buyer** ☐ may assign and thereby be released from any further liability under this Contract, ☐ may assign but not be released from liability under this Contract, or ☒ may not assign this Contract.

8. **Title: Seller** has the legal capacity to and will convey marketable title to the Property by ☒ statutory warranty deed ☐ special warranty deed ☐ other (specify) _____, free of liens, easements, and encumbrances of record or known to **Seller**, but subject to property taxes for the year of closing; covenants, restrictions, and public utility easements of record; existing zoning and governmental regulations; and (list any other matters to which title will be subject) _____, provided there exists at closing no violation of the foregoing.

(a) **Title Evidence:** The party who pays for the owner's title insurance policy will select the closing agent and pay for the title search, including tax and lien search (including municipal lien search) if performed, and all other fees charged by closing agent. **Seller** will deliver to **Buyer**, at (**Check one**) ☒ **Seller's** ☐ **Buyer's** expense and (**Check one**) ☐ within _____ days after Effective Date ☒ at least 10 days before Closing Date, (**Check one**)

(1) ☐ a title insurance commitment by a Florida licensed title insurer setting forth those matters to be discharged by **Seller** at or before closing and, upon **Buyer** recording the deed, an owner's policy in the

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amount of the purchase price for fee simple title subject only to the exceptions stated above. If **Buyer** is paying for the owner's title insurance policy and **Seller** has an owner's policy, **Seller** will deliver a copy to **Buyer** within 15 days after Effective Date.

(2) ☒ an abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an existing firm. However, if such an abstract is not available to **Seller**, then a prior owner's title policy acceptable to the proposed insurer as a base for reissuance of coverage may be used. The prior policy will include copies of all policy exceptions and an update in a format acceptable to **Buyer** from the policy effective date and certified to **Buyer** or **Buyer's** closing agent together with copies of all documents recited in the prior policy and in the update. If such an abstract or prior policy is not available to **Seller**, then (1) above will be the title evidence.

(b) **Title Examination:** After receipt of the title evidence, **Buyer** will, within 10 days (10 days if left blank) but no later than Closing Date, deliver written notice to **Seller** of title defects. Title will be deemed acceptable to **Buyer** if (i) **Buyer** fails to deliver proper notice of defects or (ii) **Buyer** delivers proper written notice and **Seller** cures the defects within 15 days (30 days if left blank) ("Cure Period") after receipt of the notice. If the defects are cured within the Cure Period, closing will occur within 10 days after receipt by **Buyer** of notice of such cure. **Seller** may elect not to cure defects if **Seller** reasonably believes any defect cannot be cured within the Cure Period. If the defects are not cured within the Cure Period, **Buyer** will have 10 days after receipt of notice of **Seller's** inability to cure the defects to elect whether to terminate this Contract or accept title subject to existing defects and close the transaction without reduction in purchase price.

(c) **Survey: Buyer** may, at **Buyer's** expense, have the Property surveyed and must deliver written notice to **Seller**, within 5 days after receiving survey but not later than 5 days before Closing Date, of any encroachments on the Property, encroachments by the Property's improvements on other lands, or deed restriction or zoning violations. Any such encroachment or violation will be treated in the same manner as a title defect and **Seller's** and **Buyer's** obligations will be determined in accordance with Paragraph 8(b).

(d) **Ingress and Egress: Seller** warrants that the Property presently has ingress and egress.

9. **Property Condition: Seller** will deliver the Property to **Buyer** at closing in its present "as is" condition, with conditions resulting from **Buyer's** Inspections and casualty damage, if any, excepted. **Seller** will not engage in or permit any activity that would materially alter the Property's condition without the **Buyer's** prior written consent.

(a) **Inspections: (Check (1) or (2))**

(1) ☒ **Due Diligence Period: Buyer** will, at **Buyer's** expense and within 5 days (30 days if left blank) ("Due Diligence Period") after Effective Date and in **Buyer's** sole and absolute discretion, determine whether the Property is suitable for **Buyer's** intended use. During the Due Diligence Period, **Buyer** may conduct a Phase 1 environmental assessment and any other tests, analyses, surveys, and investigations ("Inspections") that **Buyer** deems necessary to determine to **Buyer's** satisfaction the Property's engineering, architectural, and environmental properties; zoning and zoning restrictions; subdivision statutes; soil and grade; availability of access to public roads, water, and other utilities; consistency with local, state, and regional growth management plans; availability of permits, government approvals, and licenses; and other inspections that **Buyer** deems appropriate. If the Property must be rezoned, **Buyer** will obtain the rezoning from the appropriate government agencies. **Seller** will sign all documents **Buyer** is required to file in connection with development or rezoning approvals. **Seller** gives **Buyer**, its agents, contractors, and assigns, the right to enter the Property at any time during the Due Diligence Period for the purpose of conducting Inspections, provided, however, that **Buyer**, its agents, contractors, and assigns enter the Property and conduct Inspections at their own risk. **Buyer** will indemnify and hold **Seller** harmless from losses, damages, costs, claims, and expenses of any nature, including attorneys' fees, expenses, and liability incurred in application for rezoning or related proceedings, and from liability to any person, arising from the conduct of any and all Inspections or any work authorized by **Buyer**. **Buyer** will not engage in any activity that could result in a construction lien being filed against the Property without **Seller's** prior written consent. If this transaction does not close, **Buyer** will, at **Buyer's** expense, (i) repair all damages to the Property resulting from the Inspections and return the Property to the condition it was in before conducting the Inspections and (ii) release to **Seller** all reports and other work generated as a result of the Inspections.

Before expiration of the Due Diligence Period, **Buyer** must deliver written notice to **Seller** of **Buyer's** determination of whether or not the Property is acceptable. **Buyer's** failure to comply with this notice requirement will constitute acceptance of the Property as suitable for **Buyer's** intended use in its "as is" condition. If the Property is unacceptable to **Buyer** and written notice of this fact is timely delivered to **Seller**, this Contract will be deemed terminated, and **Buyer's** deposit(s) will be returned.

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(2) ☐ **No Due Diligence Period:** **Buyer** is satisfied that the Property is suitable for **Buyer's** purposes, including being satisfied that either public sewerage and water are available to the Property or the Property will be approved for the installation of a well and/or private sewerage disposal system and that existing zoning and other pertinent regulations and restrictions, such as subdivision or deed restrictions, concurrency, growth management, and environmental conditions, are acceptable to **Buyer**. This Contract is not contingent on **Buyer** conducting any further investigations.

(b) **Government Regulations:** Changes in government regulations and levels of service which affect **Buyer's** intended use of the Property will not be grounds for terminating this Contract if the Due Diligence Period has expired or if Paragraph 9(a)(2) is selected.

(c) **Flood Zone:** **Buyer** is advised to verify by survey, with the lender, and with appropriate government agencies which flood zone the Property is in, whether flood insurance is required, and what restrictions apply to improving the Property and rebuilding in the event of casualty.

(d) **Coastal Construction Control Line ("CCCL"):** If any part of the Property lies seaward of the CCCL as defined in Section 161.053, Florida Statutes, **Seller** will provide **Buyer** with an affidavit or survey as required by law delineating the line's location on the Property, unless **Buyer** waives this requirement in writing. The Property being purchased may be subject to coastal erosion and to federal, state, or local regulations that govern coastal property, including delineation of the CCCL, rigid coastal protection structures, beach nourishment, and the protection of marine turtles. Additional information can be obtained from the Florida Department of Environmental Protection, including whether there are significant erosion conditions associated with the shore line of the Property being purchased.

☒ **Buyer** waives the right to receive a CCCL affidavit or survey.

10. Closing Procedure; Costs: Closing will take place in the county where the Property is located and may be conducted by mail or electronic means. If title insurance insures **Buyer** for title defects arising between the title binder effective date and recording of **Buyer's** deed, closing agent will disburse at closing the net sale proceeds to **Seller** (in local cashier's check if **Seller** requests in writing at least 5 days before closing) and brokerage fees to Broker as per Paragraph 21. In addition to other expenses provided in this Contract, **Seller** and **Buyer** will pay the costs indicated below.

(a) **Seller Costs:**
Taxes on deed
Recording fees for documents needed to cure title
Title evidence (if applicable under Paragraph 8)
Estoppel Fee(s)
Other: _____

(b) **Buyer Costs:**
Taxes and recording fees on notes and mortgages
Recording fees on the deed and financing statements
Loan expenses
Title evidence (if applicable under Paragraph 8)
Lender's title policy at the simultaneous issue rate
Inspections
Survey
Insurance
Other: _____

(c) **Prorations:** The following items will be made current and prorated as of the day before Closing Date: real estate taxes (including special benefit tax liens imposed by a CDD), interest, bonds, assessments, leases, and other Property expenses and revenues. If taxes and assessments for the current year cannot be determined, the previous year's rates will be used with adjustment for any exemptions.

(d) **Special Assessment by Public Body:** Regarding special assessments imposed by a public body, **Seller** will pay (i) the full amount of liens that are certified, confirmed, and ratified before closing and (ii) the amount of the last estimate of the assessment if an improvement is substantially completed as of Effective Date but has not resulted in a lien before closing; and **Buyer** will pay all other amounts. If special assessments may be paid in installments, ☒ **Seller** ☐ **Buyer** (**Buyer** if left blank) will pay installments due after closing. If **Seller** is checked, **Seller** will pay the assessment in full before or at the time of closing. Public body does not include a Homeowners' or Condominium Association.

(e) **PROPERTY TAX DISCLOSURE SUMMARY:** **BUYER** SHOULD NOT RELY ON THE **SELLER'S** CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT **BUYER** MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY

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IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR FURTHER INFORMATION.

(f) **Foreign Investment in Real Property Tax Act ("FIRPTA"):** If **Seller** is a "foreign person" as defined by FIRPTA, **Seller** and **Buyer** will comply with FIRPTA, which may require **Seller** to provide additional cash at closing.

(g) **1031 Exchange:** If either **Seller** or **Buyer** wish to enter into a like-kind exchange (either simultaneously with closing or after) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party will cooperate in all reasonable respects to effectuate the Exchange including executing documents, provided, however, that the cooperating party will incur no liability or cost related to the Exchange and that the closing will not be contingent upon, extended, or delayed by the Exchange.

11. **Computation of Time:** Calendar days will be used when computing time periods, except time periods of 5 days or less. Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal holidays specified in 5 U.S.C. 6103(a). Other than time for acceptance and Effective Date as set forth in Paragraph 3, any time periods provided for or dates specified in this Contract, whether preprinted, handwritten, typewritten or inserted herein, which shall end or occur on a Saturday, Sunday, or national legal holiday (see 5 U.S.C. 6103) shall extend until 5:00 p.m. (where the Property is located) of the next business day. **Time is of the essence in this Contract.**

12. **Risk of Loss; Eminent Domain:** If any portion of the Property is materially damaged by casualty before closing or **Seller** negotiates with a governmental authority to transfer all or part of the Property in lieu of eminent domain proceedings or an eminent domain proceeding is initiated, **Seller** will promptly inform **Buyer**. Either party may terminate this Contract by written notice to the other within 10 days after **Buyer's** receipt of **Seller's** notification, and **Buyer's** deposit(s) will be returned, failing which **Buyer** will close in accordance with this Contract and receive all payments made by the governmental authority or insurance company, if any.

13. **Force Majeure:** **Seller** or **Buyer** will not be required to perform any obligation under this Contract or be liable to each other for damages so long as the performance or non-performance of the obligation is delayed, caused, or prevented by an act of God or force majeure. An "act of God or "force majeure" is defined as hurricanes, earthquakes, floods, fire, unusual transportation delays, wars, insurrections, and any other cause not reasonably within the control of **Seller** or **Buyer** and which by the exercise of due diligence the non-performing party is unable in whole or in part to prevent or overcome. All time periods, including Closing Date, will be extended for the period that the act of God or force majeure is in place. However, in the event that such act of God or force majeure event continues beyond 30 days, either party may terminate this Contract by delivering written notice to the other; and **Buyer's** deposit(s) will be returned.

14. **Notices:** All notices will be in writing and delivered to the parties and Broker by mail, personal delivery, or electronic means. **Buyer's failure to timely deliver written notice to Seller, when such notice is required by this Contract, regarding any contingency will render that contingency null and void, and this Contract will be construed as if the contingency did not exist. Any notice, document, or item delivered to or received by an attorney or licensee (including a transactions broker) representing a party will be as effective as if delivered to or received by that party.**

15. **Complete Agreement; Persons Bound:** This Contract is the entire agreement between **Seller** and **Buyer**. **Except for brokerage agreements, no prior or present agreements will bind Seller, Buyer, or Broker unless incorporated into this Contract.** Modifications of this Contract will not be binding unless in writing, signed or initialed, and delivered by the party to be bound. Electronic signatures will be acceptable and binding. This Contract, signatures, initials, documents referenced in this Contract, counterparts, and written modifications communicated electronically or on paper will be acceptable for all purposes, including delivery, and will be binding. Handwritten or typewritten terms inserted in or attached to this Contract prevail over preprinted terms. If any provision of this Contract is or becomes invalid or unenforceable, all remaining provisions will continue to be fully effective. **Seller** and **Buyer** will use diligence and good faith in performing all obligations under this Contract. This Contract will not be recorded in any public record. The terms "**Seller**," "**Buyer**," and "Broker" may be singular or plural. This Contract is binding on the heirs, administrators, executors, personal representatives, and assigns, if permitted, of **Seller**, **Buyer**, and Broker.

16. **Default and Dispute Resolution:** This Contract will be construed under Florida law. This Paragraph will survive closing or termination of this Contract.

(a) **Seller Default:** If **Seller** fails, neglects, or refuses to perform **Seller's** obligations under this Contract, **Buyer** may elect to receive a return of **Buyer's** deposit(s) without thereby waiving any action for damages resulting

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from **Seller's** breach and may seek to recover such damages or seek specific performance. **Seller** will also be liable for the full amount of the brokerage fee.

(b) Buyer Default: If **Buyer** fails, neglects, or refuses to perform **Buyer's** obligations under this Contract, including payment of deposit(s), within the time(s) specified, **Seller** may elect to recover and retain the deposit(s), paid and agreed to be paid, for the account of **Seller** as agreed upon liquidated damages, consideration for execution of this Contract, and in full settlement of any claims, whereupon **Seller** and **Buyer** will be relieved from all further obligations under this Contract; or **Seller**, at **Seller's** option, may proceed in equity to enforce **Seller's** rights under this Contract.

17. Attorney's Fees; Costs: In any litigation permitted by this Contract, the prevailing party shall be entitled to recover from the non-prevailing party costs and fees, including reasonable attorney's fees, incurred in conducting the litigation. This Paragraph 17 shall survive Closing or termination of this Contract.

18. Escrow Agent; Closing Agent: **Seller** and **Buyer** authorize Escrow Agent and closing agent (collectively "Agent") to receive, deposit, and hold funds and other items in escrow and, subject to Collection, disburse them upon proper authorization and in accordance with Florida law and the terms of this Contract, including disbursing brokerage fees. "Collection" or "Collected" means any checks tendered or received have become actually and finally collected and deposited in the account of Agent. The parties agree that Agent will not be liable to any person for misdelivery of escrowed items to **Seller** or **Buyer**, unless the misdelivery is due to Agent's willful breach of this Contract or gross negligence. If Agent interpleads the subject matter of the escrow, Agent will pay the filing fees and costs from the deposit and will recover reasonable attorneys' fees and costs to be paid from the escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party.

19. Professional Advice; Broker Liability: Broker advises **Seller** and **Buyer** to verify all facts and representations that are important to them and to consult an appropriate professional for legal advice (for example, interpreting this Contract, determining the effect of laws on the Property and this transaction, status of title, foreign investor reporting requirements, the effect of property lying partially or totally seaward of the CCCL, etc.) and for tax, property condition, environmental, and other specialized advice. **Buyer** acknowledges that all representations (oral, written, or otherwise) by Broker are based on **Seller** representations or public records. **Buyer agrees to rely solely on Seller, professional inspectors, and government agencies for verification of the Property condition and facts that materially affect Property value. Seller** and **Buyer** respectively will pay all costs and expenses, including reasonable attorneys' fees at all levels, incurred by Broker and Broker's officers, directors, agents, and employees in connection with or arising from **Seller's** or **Buyer's** misstatement or failure to perform contractual obligations. **Seller** and **Buyer** hold harmless and release Broker and Broker's officers, directors, agents, and employees from all liability for loss or damage based on (i) **Seller's** or **Buyer's** misstatement or failure to perform contractual obligations; (ii) the use or display of listing data by third parties, including, but not limited to, photographs, images, graphics, video recordings, virtual tours, drawings, written descriptions, and remarks related to the Property; (iii) Broker's performance, at **Seller's** or **Buyer's** request, of any task beyond the scope of services regulated by Chapter 475, Florida Statutes, as amended, including Broker's referral, recommendation, or retention of any vendor; (iv) products or services provided by any vendor; and (v) expenses incurred by any vendor. **Seller** and **Buyer** each assume full responsibility for selecting and compensating their respective vendors. This Paragraph will not relieve Broker of statutory obligations. For purposes of this Paragraph, Broker will be treated as a party to this Contract. This Paragraph will survive closing.

20. Commercial Real Estate Sales Commission Lien Act: If the Property is commercial real estate as defined by Section 475.701, Florida Statutes, the following disclosure will apply: The Florida Commercial Real Estate Sales Commission Lien Act provides that when a broker has earned a commission by performing licensed services under a brokerage agreement with you, the broker may claim a lien against your net sales proceeds for the broker's commission. The broker's lien rights under the act cannot be waived before the commission is earned.

21. Brokers: The licensee(s) and brokerage(s) named below are collectively referred to as "Broker." **Instruction to closing agent:** **Seller** and **Buyer** direct Closing Agent to disburse at Closing the full amount of the brokerage fees as specified in separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the extent Broker has retained such fees from the escrowed funds. This Paragraph will not be used to modify any MLS or other offer of compensation made by **Seller** or listing broker to cooperating brokers.

Linda J Williams	John Leocha / Kristen Bear 3447579
Seller's Sales Associate/License No.	**Buyer's** Sales Associate/License No.

Buyer (SLP) (____) and Seller (MAJ) (FBL) acknowledge receipt of a copy of this page, which is 6 of 8 pages.

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Seller's Sales Associate Email Address	Buyer's Sales Associate Email Address
linda.williams1249@yahoo.com	jleocha@yahoo.com
Seller's Sales Associate Phone Number	**Buyer's** Sales Associate Phone Number
(321) 725-2010 (321) 576-5078	321 888 5588 321 888 5588
Listing Brokerage	**Buyer's Brokerage**
Host Realty, Inc.	EXP Realty LLC
Listing Brokerage Address	**Buyer's Brokerage Address**
1590 S. Wickham Road Melbourne FL 32904	1227 S. Patrick Drive #122 Satellite Beach FL 32937

22. Addenda: The following additional terms are included in the attached addenda and incorporated into this Contract (**Check if applicable**):

☐ A. Back-up Contract

☐ B. Kick Out Clause

☐ C. Other _____

23. Additional Terms:

Owner of record: The Estate of Ilford N. Phillip authorized representatives Monique A. James and Florence Barnet-Levy

THIS PROPERTY IS SUBJECT TO A PROBATE PROCEEDING AND ALL THE REQUIREMENTS TO THAT PROCESS.MONIQUE A. JAMES AND FLORENCE BARNET-LEVY ARE APPOINTED PERSONAL REPRESENTATIVES OF THE ESTATE.ILE NO. 05-2020-CP--36224 THE CIRCUIT OF THE EIGHTEENTH JUDICIAL CIRCUIT IN AND FOR BREVARD COUNTY FLORIDA PROBATE DIVISION.

Both parties agree that the closing date will take place 5 days after court approval of the sale and title company has all necessary documents to close.

MAJ SLP 10/13/22

FBL

COUNTER-OFFER/REJECTION

☐ Seller counters Buyer's offer (to accept the counter-offer, Buyer must sign or initial the counter-offered terms and deliver a copy of the acceptance to Seller).

☐ Seller rejects Buyer's offer

This is intended to be a legally binding Contract. If not fully understood, seek the advice of an attorney before signing.

Buyer: Sherri Le Pelrine Date: 09/26/2022

Print name: Sherri Le Pelrine

Buyer: _____ Date: _____

Print name: _____

Buyer's address for purpose of notice:

Address: 42 Carson Dr Apt 108 Fort Walton Beach FL 32548

Phone: _____ Fax: _____ Email: sherripelrine@gmail.com

Seller: Monique A. James Date: 10/11/22

Print name: Monique A. James

Seller: Florence Barnett-Levy Date: 10/24/22

Print name: Florence Barnet-Levy

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Authentisign ID: A2360E49-D44F-ED11-ADE6-0050F26450A3

Seller's address for purpose of notice:

Address: _____

Phone: _____ Fax: _____ Email: _____

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Filing # 161454120 E-Filed 11/17/2022 02:20:57 PM

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT IN AND FOR BREVARD COUNTY, FLORIDA
PROBATE DIVISION
IN RE: ESTATE OF

ILFORD NATHANIEL PHILLIPS A/K/A ILFORD N. PHILLIPS A/K/A ILFORD NATHANIAL PHILLIP A/K/A ILFORD N. PHILLIP A/K/A ELFORD NATHANIEL PHILLIPS A/K/A ELFORD N. PHILLIPS A/K/A ELFORD NATHANIAL PHILLIP A/K/A ELFORD N. PHILLIP

Deceased.

File No. 05-2020-CP-36224

Division PROBATE

ORDER AUTHORIZING THE SALE OF REAL PROPERTY

MONIQUE A. JAMES and **FLORENCE BARNETT-LEVY**, the personal representatives of the estate of **ILFORD NATHANIEL PHILLIPS A/K/A ILFORD N. PHILLIPS A/K/A ILFORD NATHANIAL PHILLIP A/K/A ILFORD N. PHILLIP A/K/A ELFORD NATHANIEL PHILLIPS A/K/A ELFORD N. PHILLIPS A/K/A ELFORD NATHANIAL PHILLIP A/K/A ELFORD N. PHILLIP**, deceased, presented to this court and filed a verified petition requesting an order to authorize the Personal Representatives to sell so much and those parts of the real property belonging to the estate of the decedent as this court should judge to the best interest of the estate and of the persons interested in the estate; and

The beneficiaries of the estate, do not have the means to maintain, nor pay the taxes for the real property and it is in the best interest of the estate to sell the real property and distribute the funds from the sale to the beneficiaries at the completion of the administration; and

All the law and the evidence being considered by the court;

IT IS ADJUDGED that **MONIQUE A. JAMES** and **FLORENCE BARNETT-LEVY**, the Personal Representatives of the estate of **ILFORD NATHANIEL PHILLIPS A/K/A ILFORD N. PHILLIPS A/K/A ILFORD NATHANIAL PHILLIP A/K/A ILFORD N. PHILLIP A/K/A ELFORD NATHANIEL PHILLIPS A/K/A ELFORD N. PHILLIPS**

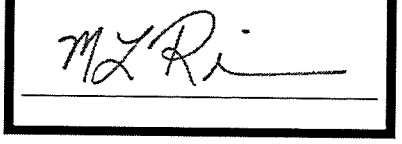
A/K/A ELFORD NATHANIAL PHILLIP A/K/A ELFORD N. PHILLIP, deceased, is authorized to sell the real property described located at 714 Johnson Street, Cocoa, Florida 32922.

at private sale on the following terms:

SHERRI LE PELRINE will purchase the property located 714 Johnson Street, Cocoa, Florida 32922 for a total of Twenty Thousand and No Cents ($20,000.00).

DONE AND ORDERED at the Moore Justice Center, Viera, Brevard County, Florida on Thursday, November 17, 2022 .

05-2020-CP-036224 11/17/2022 02:20:41 PM



Morgan Reinman, Judge
05-2020-CP-036224 11/17/2022 02:20:41 PM

Authorization

That on this **day of July 26th 2022, Monique A. James**, whose post office address is 65 West 180th Street Bronx, NY 10453 authorize Jessica Milian and/or Jennifer Wessel and/or Axis Title, LLC to act on behalf of myself and the Estate of Nathanial Phillips AKA Elfred N. Phillips for the property located at 714 Johnson Street, Cocoa FL, 32922.

Legal Description: The West 95 feet and the East 50 feet of Lot 4, Block 6, JOHNSON'S SUB-DIVISION, according to the plat thereof, recorded in Plat Book 3, Page 74, of the Public Records of Brevard County, Florida.

E-signed by Samantha Naranjo on July 26, 2022 at 01:21 PM CST
S Naranjo
193313

Witness:

Samantha Naranjo

Printed Name:

E-signed by Jennifer Wessel on July 26, 2022 at 01:56 PM CST
Jennifer Wessel
193314

Witness

Jennifer Wessel

Printed Name:

E-signed by Monique A. James on July 26, 2022 at 01:49 PM CST
Monique A. James
202132

Monique A. James

STATE OF FLORIDA
COUNTY OF BROWARD

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me by means of [_] physical presence or [X] online notarization, on this 26th day of July, 2022 by **Monique A. James**, who is/are personally known to me or who has/have produced Driver's License as identification.

E-signed by Samantha Naranjo on July 26, 2022 01:55 PM CST
NOTARY PUBLIC STATE OF FLORIDA
SAMANTHA NARANJO
Notary Public - State of Florida
Comm #: HH 44271
My Comm Exp:September 20, 2024
Notarized remotely via audio/video communication

S Naranjo
193313

Notary Public

Printed Name: Samantha Naranjo

My Commission Expires:

Sep. 20, 2024

CITY OF COCOA
CODE ENFORCEMENT
STAFF REPORT
2/16/2023

LIEN REDUCTION REQUEST FOR
714 Johnson St

CASE # #16-772

The Code Enforcement Board held a public hearing on **4/17/2017**, at which time the Board found the owner, **Nathaniel Phillips** in violation of the following:

Sec. 6-1003 (a) Exterior structure, Roof Damage
Sec. 6-1003 (b) Protective treatment, Roof
Sec. 6-1003 (d) Structural Member, wall and foundation
Sec. 6-1003 (f) Exterior structure, exterior walls
Sec. 6-1003 (h) Decorative features, trim and corner pieces
Sec. 6-1003 (m) Window, door and frame, Window damage
Sec. 6-1003 (m) (1) Window Glazing, Window damage
Sec. 6-1003 (m) (2) window operational, Window damage
Sec. 6-1003 (n) Insect screens, Screen damage
Sec. 6-1003 (o) Doors, Exterior door damage
Sec. 6-1004 (c) Maintenance of interior structure, Ceiling, walls, and floor
Sec. 6-1204 (a-d) Water systems, Hot water heater
Sec. 6-1304 (a-c) Electrical equipment, exposed electrical wires
Sec. 6-900 (b) (4) a-c, Maintenance of structure and grounds
Sec. 6-1203 (a-c) Plumbing fixtures, Sink, toilet, and shower

The Code Enforcement Board provided the owner sufficient time to correct said violation. Therefore, consistent with the Code Enforcement Board's Order a lien was imposed against the property effective **6/17/2016.** The lien ran at **$250.00** per day from **6/17/2016** until compliance was achieved on **3/30/2018**. Code records show onsite inspections were conducted by Officer Murdick and Gonzalez, and I. The case was closed leaving a fine of $62,780.00.The current owner, **Nathaniel Phillips**, is requesting that the lien be reduced to **$2,500 or Staff's Hard Costs**

Staff utilized the following factors in making its recommendation to reduce the lien:

- Whether the current owner owned the property at the time the violation(s) occurred; **No**

- Applicant resides at the property: **No, owner is deceased**

- The number of violations related to the subject lien; **Fifteen**

- Number of Inspections performed: **9**
- Property Taxes: **Taxes paid through 2022**
- Other Liens: **Records show no outstanding liens on the property. No Water Liens**
- Property Inspection: **2/14/2023 and was incompliance before Code Board Hearing. An inspection will occur prior to the Council Meeting**

The current market value of the subject property; the current market value is **$15,000** according the Brevard County Property Appraiser as a vacant residential lot. Property was cited with a home.

Staff submits their cost sheet and the in the total amount of **$1681.98**

Staff's recommendation is that the fine/lien be reduced to **$1681.98** which is the cost of staff to prosecute this case**.** This reduction is based on the gravity of the violations, the length of time it took the property to come into compliance, and the total amount of the City's Cost.

Cocoa Police Department
Code Enforcement Division
Affidavit for Cost Reimbursement of Code Enforcement Case

Case#: CE-16-772 **Date: 2/14/2023**

Phillips, Nathaniel

Site Address: 714 Johnson St

Cocoa Code Enforcement has incurred actual costs, as defined in F.S.S 162.09 for cost by the City in Prosecuting this case.

A. Salaries of Code Enforcement staff. (Hourly rate: Officer-$35.06, Coordinator-$36.06, Manager-$48.54, Chief-$69.71 & City Attorney-$150.00)

	Officer/Manager	# of Inspections	Hours	Rate	Total
1	Code Officer	8	0.75	$35.06	$210.36
2	Code Manager	2	0.75	$48.54	$72.81
3					
				Total A1	$283.17

	Officer/Manager	Office Duties	Hours	Rate	Total
1	Code Officer	8	0.5	35.06	$280.48
2	Code Manager	2	0.5	48.54	$97.08
3					
				Total A2	$377.56

	Supporting Staff	Duty	Hours	Rate	Total
1	Code Coordinator	Case Duties	12	$36.06	$432.72
2	City Attorney	Case Duties	2	$150.00	$300.00
3	Chief	Board Hearings	0	$69.71	$0.00
4					
5					
				Total A3	$732.72

B. Expenditures - Actual expenses incurred during the process of the Code Case.

	Item	Quantity	Amount	Total
1	Documents per Sheet	472	$0.35	$165.20
2	Large Envelope	52	$0.64	$33.28
3	Standard Envelope	12	$0.10	$1.20
4	Color Photo Prints	32	$0.55	$17.60
5	Standard Mail	9	$0.55	$4.95
6	Certified Mail	5	$5.26	$26.30
7	Recording Fees	4	$10.00	$40.00
8				
9				
			Total B	$288.53

C. Total Amount of Cost (A1+A2+A3+B): $1,681.98

Estimate Property Taxes

Account: 2426213



Owners:
PHILLIPS, NATHANIEL
Wrong ownership? Maybe this is why...

Mail Address:
992 WOODYCREST AVE BRONX NY 10452

Site Address:
714 JOHNSON ST COCOA FL 32922

Parcel ID:
24-36-33-56-6-4

Taxing District:
23D0 - COCOA

2022 Exemptions:
NONE
Wrong exemption? Maybe this is why...

Property Use:
0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED)

Total Acres:
0.17

Site Code:
0001 - NO OTHER CODE APPL.

Plat Book/Page:
0003/0074

Subdivision Name:
JOHNSONS SUBD

Land Description:
JOHNSONS SUBD LOT 4 BLK 6

Value

Category	2022	2021	2020
Market Value:	$15,000	$9,000	$6,000
Agricultural Classified Use Value:	$0	$0	$0
Assessed Value Non-School:	$7,260	$6,600	$6,000
Assessed Value School:	$15,000	$9,000	$6,000
Homestead Exemption:	$0	$0	$0
Additional Homestead:	$0	$0	$0
Other Exemptions:	$0	$0	$0
Taxable Value Non-School:	$7,260	$6,600	$6,000

Category	2022	2021	2020
Taxable Value School:	$15,000	$9,000	$6,000

Sales/Transfers

Don't see your sale/transfer here? Maybe this is why...

Date	Price	Type	Instrument
05/01/2009	--	QC	5942/733
05/01/2009	--	QC	5942/730
05/22/2007	--	QC	5780/7359
01/08/2002	$11,000	WD	4518/3932
01/08/2002	--	WD	4518/3930
01/08/2002	--	WD	4518/3928
12/29/2000	--	CT	4276/3202
06/01/1993	$33,000	PT	3304/155
06/01/1993	--	PT	3304/154
11/01/1990	--	PT	3093/4773

Buildings

Wrong building data? Maybe this is why...

No Data Found

CODE ENFORCEMENT BOARD
CITY OF COCOA, FLORIDA
CASE NO. 16-0000772

CFN 2017098150, OR BK 7886 PAGE 1090,
Recorded 05/10/2017 at 02:00 PM, Scott Ellis, Clerk of Courts,
Brevard County
Pgs:2

THE CITY OF COCOA
A Florida Municipal Corporation,
Complainant,

vs.

Nathaniel Phillips
Owners of the Property located at:
714 Johnson St
Cocoa FL 32922

Parcel ID: 24-36-33-56-6-4

Respondent,
_____/

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

THIS CAUSE, having come for consideration, after being duly noticed, before the Code Enforcement Board of the City of Cocoa, Florida, on April 20, 2017 to determine whether any violations of the City of Cocoa Code of Ordinances exist or existed on the property. The Board, having heard the arguments of the parties and the evidence presented and having reviewed the record and being otherwise fully advised, makes the following Findings of Fact, Conclusions of Law and Order as set forth herein.

Findings of Fact and Conclusions of Law

Based upon the evidence and testimony presented at this hearing, the Code Enforcement Board finds: That a code enforcement officer of the City of Cocoa determined the Subject Property was in violation of: Section 6-1003 (a) Exterior structure, Roof Damage, Section 6-1003 (b) Protective treatment, Roof, Section 6-1003 (d) Structural Member, wall and foundation, Section 6-1003 (f) Exterior structure, exterior walls, Section 6-1003 (h) Decorative features, trim and corner pieces, Section 6-1003 (m) Window, door and frame, Window damage, Section 6-1003 (m) (1) Window Glazing, Window damage, Section 6-1003 (m) (2) window operational, Window damage, Section 6-1003 (n) Insect screens, Screen damage, Section 6-1003 (o) Doors, Exterior door damage, Section 6-1004 (c) Maintenance of interior structure, Holes in the ceiling, walls, and floor, Section 6-1204 (a-d) Water systems, Hot water heater, Section 6-1304 (a-c) Electrical equipment, exposed electrical wires, Section 6-900 (b) (4) a-c, Maintenance of structure and grounds and Section 6-1203 (a-c) Plumbing fixtures, Sink, toilet, and shower, of the City Code, and issued a Notice of Violation to Respondent giving a reasonable time to correct the violation(s).

1. That Respondent failed to correct such violation(s) within the reasonable time period provided in the Notice of Violation. Pursuant to section 162.06, Florida Statutes, this hearing was scheduled. Proper written notice of this hearing was given to Respondent.

2. That based on the testimony and evidence presented, including Staff's presentation, the Board finds Respondent is in violation of the following: Section 6-1003 (a) Exterior structure, Roof Damage, Section 6-1003 (b) Protective treatment, Roof, Section 6-1003 (d) Structural Member, wall and foundation, Section 6-1003 (f) Exterior structure, exterior walls, Section 6-1003 (h) Decorative features, trim and corner pieces, Section 6-1003 (m) Window, door and frame, Window damage, Section 6-1003 (m) (1)

3. Window Glazing, Window damage, Section 6-1003 (m) (2) window operational, Window damage, Section 6-1003 (n) Insect screens, Screen damage, Section 6-1003 (o) Doors, Exterior door damage, Section 6-1004 (c) Maintenance of interior structure, Holes in the ceiling, walls, and floor, Section 6-1204 (a-d) Water systems, Hot water heater, Section 6-1304 (a-c) Electrical equipment, exposed electrical wires, Section 6-900 (b) (4) a-c, Maintenance of structure and grounds and Section 6-1203 (a-c) Plumbing fixtures, Sink, toilet, and shower, of the City Code.

Order

BASED UPON THE FOREGOING FACTS AND CONCLUSIONS OF LAW, IT IS HEREBY ORDERED:

1. Respondent shall be given until June 21, 2017 to correct all violations set forth herein on the property.

2. If Respondent fails to correct all cited violations within the time period set forth herein,the Code Enforcement Officer shall schedule this Case to appear for a compliance hearing before the Code Enforcement Board at a date to be determined, where the sole issue to be considered is whether compliance has been achieved on all violations. Respondent will be given an opportunity to appear and present evidence regarding compliance.

3. Upon a finding by the Code Enforcement Board that the property was not brought into compliance by the date set forth in this Order, a fine in the amount of two hundred and fifty dollars ($250.00) per day may be imposed for each and every day any of the violations continue past the above-stated date ordered for compliance by the Board and the daily fines shall continue to run until the violation is corrected and full compliance is confirmed by the Code Enforcement Officer. Respondent shall be responsible to immediately notify the Code Enforcement Officer if the property has been brought into compliance.

4. If the Board finds Respondent failed to comply with all violations by the date set forth herein, an Order Imposing Fine shall be entered and a certified copy of said Order may be recorded in the public records of Brevard County, Florida, which shall serve as a lien against the property.

Once the violations have been corrected, any of the same violations by Respondent within five years may constitute a repeat violation where the Board may impose a fine of up to $500.00 per day for each day the violation exists beginning the day the repeat violation is first observed by the Code Enforcement Officer.

DONE AND ORDERED THIS 20th DAY OF April, 2017.

CODE ENFORCEMENT BOARD OF THE
CITY OF COCOA, FLORIDA

Jim Gifford, Chairman

I CERTIFY THAT A COPY OF THIS ORDER was furnished to Respondent(s) at Aao Stores LLC, whose mailing address is 402 A Highpoint Dr Cocoa FL 32926 this 26th day of April, 2017 via hand delivery/certified mail/U.S. mail/posting (circle all that apply).

Secretary, Code Enforcement Board

CODE ENFORCEMENT BOARD
CITY OF COCOA, FLORIDA
CASE NO. 16-772
8/17/2017

CFN 2017178479, OR BK 7969 PAGE 219,
Recorded 08/24/2017 at 12:57 PM, Scott Ellis, Clerk of Courts, Brevard County
Pgs:1

THE CITY OF COCOA
A Florida Municipal Corporation

Complainant,

vs.

Nathaniel Phillips
Owners of the Property located at:
714 Johnson St
Cocoa FL 32922

Parcel ID: 24-36-33-56-6-4

Respondent,

ORDER IMPOSING ADMINISTRATIVE FINE/LIEN

THIS CAUSE, having come for consideration, after being duly noticed, before the Code Enforcement Board of the City of Cocoa, Florida, on 4/20/2017 to determine whether any violations of the City of Cocoa Code of Ordinances existed on the property. The Board, having heard the arguments of the parties and the evidence presented and having reviewed the record and being otherwise fully advised, issued the Findings of Fact, Conclusions of Law and Order. The Order required the Respondent to come into compliance by 7/21/2017

At a duly noticed Compliance Hearing of Code Enforcement Board the Respondent was found in non-compliance of the Board Order. It is hereby Ordered that the City of Cocoa shall impose a fine in the amount of $250.00 per day until the violation is corrected and full compliance is confirmed by the Code Enforcement Officer.

This Order shall be recorded in the public records for Brevard County, Florida, which shall serve as a lien against and upon any real or personal property owned by the Respondent pursuant to Section 162.08 and 162.09, Florida Statutes.

DONE AND ORDERED at Cocoa, Florida, this 17th , day of August, 2017

CODE ENFORCEMENT BOARD OF THE CITY OF COCOA, FLORIDA

Jim Gifford, Chairman

CERTIFICATION:
State of Florida, County of Brevard

I hereby certify that this is an Original Copy of the Order of the Code Enforcement Board that was acknowledged before me this 18 day of August, 2017, by Jim Gifford, Chairman of the City of Cocoa Code Enforcement Board.

Notary Public Signature

RACHEL M. UNRUH
MY COMMISSION # GG 049001
EXPIRES: June 14, 2020
Bonded Thru Budget Notary Services

Legislation Details (With Text)

File #:	23-133	**Version:**	1	**Name:**	
Type:	Resolution			**Status:**	Council Busines
File created:	2/21/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	

Title: Request Council to award Bid # B 23-15-COC to the lowest bidder Sapphire Elevator for the Elevator Upgrade at the Historic Cocoa Village Playhouse in the amount of $67,083 and execute the agreement. Approve a Resolution Amending the FY 2023 Budget, BAF # 23-047-A. Approve a Project Contingency Resolution for approval of any Change Orders not to exceed $7,060. Authorize the City Manager to execute amendments and extensions to the agreement within approved contingency. (Public Works Director)

Sponsors:

Indexes:

Code sections:

Attachments:
B-23-15-COC Construction Agreement - Partial.pdf
Budget Resolution FY 2023- ADA Compliant.pdf
BAF 23-047-A-PW-Elevator Upgrades a Cocoa Playhouse (3-14-23) Agenda 23-133.pdf
Construction Contingency Resolution.pdf
ITB B-23-15-COC Playhouse Elevator.pdf
Sapphire Bid $67,083.pdf
B-23-15-COC Bid Tabulation.pdf
Sapphire Bid Form $67,083.pdf
City - Playhouse Agreement.pdf

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: February 21, 2023
Agenda Date: March 14, 2023
Prepared By: Frank Mirabito, Project Manager
Through: Bryant Smith III, P.E., CFM - Public Works Director / City Engineer
Requested Action:
Request Council to award Bid # B 23-15-COC to the lowest bidder Sapphire Elevator for the Elevator Upgrade at the Historic Cocoa Village Playhouse in the amount of $67,083 and execute the agreement. Approve a Resolution Amending the FY 2023 Budget, BAF # 23-047-A. Approve a Project Contingency Resolution for approval of any Change Orders not to exceed $7,060. Authorize the City Manager to execute amendments and extensions to the agreement within approved contingency.

BACKGROUND:

During 2022 the elevator at the Historic Cocoa Village Playhouse stopped operating. Replacement

parts are unavailable and it became necessary to upgrade the elevator and related systems. This upgrade is necessary for safety and ADA compliance reasons.

Bid B-23-15-COC was broadcast on January 10, 2023 closing on Friday February 17, 2023. Three responses were received with Sapphire Elevator as low bidder with a total of $67,083, including bid additives. The bid additives include a second set of control boards for future replacement, as needed.

The City entered into a Municipal Lease Agreement with The Historic Cocoa Village Playhouse Inc. (Playhouse) in November of 2010. The Agreement was later amended in March of 2014. Details of this agreement and its amendment are provided below regarding the City obligations:

- The agreement will remain in effect until either party wishes to terminate the agreement. A 9 month notice is required and the agreement will be effective until the last scheduled ticketed performance is complete from the date of the notice.

- The City is responsible for all costs associated with electric, water, sewer, solid waste, and stormwater utility. The City has typically been spending about $51,000 per year for those services.

- The City is also responsible to provide up to $70,000 per year (with CPI) for operation and maintenance services. Based on CPI rates since the origination of this Agreement, that amount is about $87,000.

- Maintain adequate pest control, security protection, and fire protection systems. This is performed at the City's expense.

- The City is responsible to maintain and repair foundations, structures, windows, doors, roofs, internal electrical systems, HVAC, and plumbing. City Facilities staff is responsible for these items.

- Assist the Playhouse Provider with basic human resource activities, including employment advertisements, recruiting, and other information sharing activities.

- Assist the Playhouse Provider with the purchasing of goods and materials, including bid advertisements and awards.

- Assist the Playhouse Provider with general promotional activities.

- Assist the Playhouse Provider with general accounting and book keeping services, auditing, and payroll processing services.

- Assist the Playhouse Provider with general information technology support services.

- As part of the initial agreement, the City was also required to execute a three year capital improvement plan which included the design, permitting, and construction of code compliance items, orchestra pit expansion, upper balcony renovation, and audience seat replacement.

In addition to the $74,143 for the elevator replacement, a future agenda item for the March 30, 2023, City Council Meeting will be related to the award recommendation of a Fire Alarm Control Panel. This will exceed $100,000.

STRATEGIC PLAN CONNECTION:

The Historic Cocoa Village Playhouse improves the City's Image and Culture.

BUDGETARY IMPACT:

Budgeted No
If not budgeted, is amendment/transfer attached? Yes
BAF#23-047-A

Amount Requested $74,143
Account Number _001-0000-389.99-50
Account Name _Fund Balance

Amount Requested $74,143
Account Number _001-3560-519.62-00 PW23PE
Account Name _Building

The Original PO will not include project contingency.

PREVIOUS ACTION:

N/A

RECOMMENDED MOTION:

Request Council to award Bid # B 23-15-COC to the lowest bidder Sapphire Elevator for the Elevator Upgrade at the Historic Cocoa Village Playhouse in the amount of $67,083 and execute the agreement. Approve a Resolution Amending the FY 2023 Budget, BAF # 23-047-A. Approve a Project Contingency Resolution for approval of any Change Orders not to exceed $7,060. Authorize the City Manager to execute amendments and extensions to the agreement within approved contingency.

CONSTRUCTION AGREEMENT
B-23-15-COC

THIS AGREEMENT is made this ____ day of _____, 2023 by and between the **CITY OF COCOA**, a Florida municipal corporation (herein referred to as OWNER) and **SAPPHIRE ELEVATOR LLC**, a for profit corporation authorized and duly licensed to do business in the State of Florida (herein referred to as CONTRACTOR), as follows:

1. **DESCRIPTION OF WORK** - CONTRACTOR shall perform the work, in accordance with the Contract Documents to provide construction services to modernize the elevator located at the Cocoa Village Historic Playhouse 300 Brevard Avenue, Cocoa, Florida, 32922, ("the Project").

2. **CONTRACT DOCUMENTS** - The Contract Documents consist of this Agreement; Exhibits and Addendum(s) to the Agreement; the Construction Drawings for City of Cocoa; ITB Documents issued by the City, dated January 17, 2023; Contractor's Bid Submittal, dated February 17, 2023; General Conditions, if any; Supplemental Terms and Conditions by the City, if any; all Change Orders approved by the City after execution of this Agreement; These Contract Documents are hereby incorporated into this Contract by this reference. The CONTRACTOR represents and agrees that it has carefully examined and understands this Agreement and the other Contract Documents, has investigated the nature, locality and site of the Work and the conditions and difficulties under which it is to be performed and that it enters into this Agreement on the basis of its own examination, investigation and evaluation of all such matters and not in reliance upon any opinions or representations of the OWNER, or of any of their respective officers, agents, servants, or employees. The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intent of the Contract Documents is to include all labor, materials, equipment, transportation, taxes, fees and incidentals necessary for the proper and complete execution of the Work for each Project. Materials or Work described in words which so applied have a well-known technical or trade meaning shall be held to refer to such recognized standards. Any discrepancies or omissions found in the Contract Documents shall be reported to the City's Project Manager immediately. The City's Project Manager will clarify discrepancies or omissions, in writing, within a reasonable time.

3. **ORDER OF PRECEDENCE** - In case of any inconsistency in any of the documents bearing on the Agreement between the OWNER and the CONTRACTOR, the inconsistency shall be resolved by giving precedence in the following order:

    a. Change Orders

    b. Agreement, Exhibits and Addenda

    c. Supplemental Terms and Conditions

    d. General Terms and Conditions

    e. Engineering Plans and Drawings

    f. ITB B-23-15-COC issued by the City of Cocoa dated January 17, 2023,

including any subsequently issued Addenda, Attached as Exhibit B

g. Contractor's Bid Submittal, attached as Exhibit C

Any inconsistency in the work description shall be clarified by the OWNER and performed by the CONTRACTOR.

4. **AGREEMENT INTERPRETATION** - At its discretion, during the course of the work, should any errors, ambiguities, or discrepancies be found in the Contract Documents, the OWNER at its sole discretion will interpret the intent of the Contract Documents and the CONTRACTOR hereby agrees to abide by the OWNER's interpretation and agrees to carry out the work in accordance with the decision of the OWNER.

5. **BRAND NAME MATERIALS** - Whenever Materials or Equipment are specified or described in the Drawings or Specifications by using the name of a proprietary item or the name of a particular Supplier, the naming of the item is intended to establish the type, function and quality required. The CONTRACTOR will be responsible for all coordination necessary to accommodate the material, article, or equipment being provided without additional cost to the OWNER. Unless the name is followed by words indicating that no substitution is permitted, a substitute material, article, or equipment is allowed if it is reasonably equivalent to the brand name specified and CONTRACTOR certifies in writing that the proposed substitute will perform adequately the functions called for by the general design, be similar and of equal substance to that specified and be suited to the same use and capable of performing the same function as that specified. . The OWNER has full discretion to decide whether a substitute is reasonably equivalent. CONTRACTOR must notify the OWNER in writing prior to use of the substitute for a specified brand name and allow the OWNER to make a determination before CONTRACTOR uses the substitute.

6. **CONTRACT TIME** -

a. All provisions regarding Contract Time are essential to the performance of this Contract.

b. The Work shall be substantially completed within sixty (60) calendar days after the date when the Contract Time begins to run. The Work shall be finally completed, ready for Final Payment within Thirty (30) calendar days after the actual date of Substantial Completion.

The date of Substantial Completion of the Work is the date certified in writing by the OWNER when (1) construction is sufficiently complete, in accordance with the contract documents, so the OWNER can occupy or utilize the work for its intended purpose, as expressed by the contract documents, and (2) any additional project-specific requirements or milestones for "Substantial Completion" identified in the general, special, or technical conditions or construction plans have been satisfied.

c. The parties acknowledge that the Contract Time provided in this Section includes consideration of adverse weather conditions common to Central Florida including the possibility of hurricanes and tropical storms.

d. In the event that the Work requires phased construction, then multiple points of Substantial Completion may be established in the Supplementary Conditions.

7. **LIQUIDATED DAMAGES** - OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not substantially complete within the time specified in Paragraph 6 above, plus any extensions thereof allowed in accordance with the General Conditions. OWNER and CONTRACTOR also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration preceding the actual loss suffered by OWNER if the Work is not substantially complete on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER **$100.00** for each calendar day that expires after the time specified in Paragraph 6 for substantial completion until the work is substantially complete and **$50.00** for each calendar day that expires after the time specified in Paragraph 6 for final completion until the work is finally complete. The liquidated damages provided in this Section are intended to apply even if CONTRACTOR is terminated, in default, or if the CONTRACTOR has abandoned the Work. This provision binds Contractor's performance bond surety.

8. **CONTRACT PRICE, UNIT PRICE CONTRACT** - The OWNER will pay the CONTRACTOR in current funds for the performance of the work, **which includes the alternate bid item,** in accordance with the Contract Documents, subject to additions and deductions approved by Change Order, the Total Contract Price of **Sixty Seven Thousand and Eighty Three Dollars ($67,083.00)**. CONTRACTOR agrees to accept the Contract Price as full compensation for performing all Work, furnishing all Materials, and performing all Work embraced in the Contract Documents.

The CONTRACTOR acknowledges that CONTRACTOR studied, considered, and included in CONTRACTOR's Total Bid all costs of any nature relating to: (1) performance of the Work under Florida weather conditions; (2) applicable law, licensing, and permitting requirements; (3) the Project site conditions, including but not limited to, subsurface site conditions; (4) the terms and conditions of the Contract Documents, including, but not limited to, the indemnification and no damage for delay provisions of the Contract Documents.

The CONTRACTOR acknowledges that performance of the Work may involve significant Work adjacent to, above, and in close proximity to Underground Facilities including utilities which will require the support of active utilities, as well as, the scheduling and sequencing of utility installations, and relocations (temporary and permanent) by CONTRACTOR.

(1) In addition to the acknowledgments previously made, the CONTRACTOR acknowledges that the CONTRACTOR's Total Bid (original Contract Price) specifically considered and relied upon CONTRACTOR's own study of Underground Facilities, utilities in their present, relocated (temporary and permanent) and proposed locations, and conflicts relating to utilities and Underground Facilities.

(2) The CONTRACTOR acknowledges that CONTRACTOR's Total Bid (original Contract Price) considered and included all of CONTRACTOR's costs relating to CONTRACTOR's responsibilities to coordinate and sequence the Work of the CONTRACTOR with the work of the OWNER, if any, with its own forces, the work of other contractors, if any, and the work of others at the Project site.

Payments will be made to the CONTRACTOR for actual quantities installed on the basis of the Schedule of Unit Prices included as a part of the Bid, which shall be as fully a part of the Contract as if attached or repeated herein. Where the Contract Documents provide for Unit Price Work, the Contract Price stated in the Agreement will include for all Unit Price Work an amount equal to the sum of the Unit Prices for each item of Unit Price Work times the estimated quantity of each item as indicated in the Contract Documents. Each Unit Price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover all costs, including supplemental and administrative costs, and profit.

9. **TERMINATION; DEFAULT BY CONTRACTOR AND OWNER'S REMEDIES -** The OWNER reserves the right to revoke and terminate this Agreement and rescind all rights and privileges associated with this Agreement, without penalty, for convenience. Further, the OWNER reserves the right to revoke and terminate this Agreement in the following circumstances, each of which shall represent a default and breach of this Agreement:

a. CONTRACTOR defaults in the performance of any material covenant or condition of this Agreement and does not cure such other default within seven (7) calendar days after written notice from the OWNER specifying the default complained of, unless, however, the nature of the default is such that it cannot, in the exercise of reasonable diligence, be remedied within seven (7) calendar days, in which case the CONTRACTOR shall have such time as is reasonably necessary to remedy the default, provided the CONTRACTOR promptly takes and diligently and continuously pursues such actions as are necessary therefore; or

b. CONTRACTOR is adjudicated bankrupt or makes any assignment for the benefit of creditors or CONTRACTOR becomes insolvent, or is unable or unwilling to pay its debts; or

c. CONTRACTOR has acted negligently, as defined by general and applicable law, in performing the Work hereunder; or

d. CONTRACTOR has committed any act of fraud upon the OWNER; or

e. CONTRACTOR has made a material misrepresentation of fact to the OWNER while performing its obligations under this Agreement; or

f. CONTRACTOR is experiencing a labor dispute, which threatens to have a substantial, adverse impact upon performance of this Agreement without prejudice to any other right, or remedy OWNER may have under this Agreement.

In the event of an uncured default by CONTRACTOR, the OWNER shall have the right to exercise any other remedy the OWNER may have by operation of law, without limitation, and without any further demand or notice. In the event of such termination, OWNER shall be liable only for the payment of all unpaid charges, determined in accordance with the provisions of this Agreement, for Work properly performed prior to the effective date of termination, which may be a set-off to Owner's damages.

10. **FORCE MAJEURE -** Any delay or failure of either party in the performance of its required obligations hereunder shall be excused if and to the extent caused by acts of God; fire; flood; windstorm; explosion; riot; war; sabotage; strikes (except involving CONTRACTOR's labor force); extraordinary breakdown of or damage to OWNER 's affiliates' generating plants, their equipment, or facilities; court injunction or order; federal and/or state law or regulation; or order by any regulatory agency; ; provided that prompt notice of such delay is given by such party to the other and each of the parties hereunto shall be diligent in attempting to remove such cause or causes.

11. **SEVERABILITY -** In the event any portion or part thereof of this Agreement is deemed invalid, against public policy, void, or otherwise unenforceable by a court of law, the validity and enforceability of the remaining parts of this Agreement shall otherwise be fully enforceable

12. **PROGRESS PAYMENTS; DUE DATE FOR PROGRESS PAYMENTS; SUBMITTAL OF PAYMENT REQUESTS** – No payments shall be made where a Payment and Performance Bond is required herein until OWNER receives a certified copy of the recorded Bond. OWNER shall make progress payments on account of the contract price to CONTRACTOR, on the basis of application for payments submitted to the OWNER or OWNER's Project Manager, by CONTRACTOR as the work progresses, and in accordance with the Contract Documents.

Progress payments may be withheld if:

a. Work is found defective and not remedied;

b. CONTRACTOR does not provide consent of surety with each payment application;

c. Another contractor is damaged by an act for which CONTRACTOR is responsible; or

d. In the opinion of the OWNER that CONTRACTOR's work is not progressing satisfactorily.

OWNER herein (X) designates or (____) does not designate an agent, i.e., an architect or engineer, that must approve any payment request or invoice before the payment request or invoice is submitted to OWNER for payment. If an agent must approve the payment request or invoice before the payment request or invoice is submitted to OWNER, payment is due 25 business days after the date on which the payment request or invoice is stamped as received as provided in s. 218.74(1), Florida Statutes, except to the extent that the payment request or invoice does not meet contract requirements. The CONTRACTOR may send OWNER an overdue notice. If the payment request or invoice is not rejected within 4 business days after delivery of the overdue notice, the payment request or invoice shall be deemed accepted, except for any portion of the payment request or invoice that is inaccurate or misleading. If an agent need not approve the payment request or invoice submitted by CONTRACTOR, payment is due 20 business days after the date on which the payment request or invoice is stamped as received as provided in s. 218.74(1), Florida Statutes, except to the extent that the payment request or invoice does not meet contract requirements. If OWNER disputes a portion of a payment request or an invoice, the undisputed portion shall be timely paid. OWNER shall reject payment requests or invoices in accordance with the procedure established in s. 218.735, Florida Statutes.

OWNER hereby identifies City of Cocoa Accounts Payable with an email address of accountspayable@cocoafl.org, as the agent or office to which the CONTRACTOR must submit payment requests or invoices to OWNER. The OWNER further hereby identifies Gary Palmer, Facilities and Grounds Manager, Attn: gpalmer@cocoafl.gov as the agent that must approve payment requests prior to their submission to OWNER.

13. **FINAL PAYMENT; CHANGE ORDERS** - OWNER shall withhold up to 5% of the Contract Price throughout the project in accordance with the Local Government Prompt Payment Act ("Act"). The retainage amount withheld may be released with the Final Payment after the issuance of the Final Completion Certificate. Consent of surety is required for final payment. OWNER shall make final payment to CONTRACTOR within thirty (30) days after the work is fully and properly completed, if the contract has been fully and timely performed, but subject to the condition that final payment shall not be due until CONTRACTOR has delivered to OWNER all close-out documentation.

By making payments OWNER does not waive claims including but not limited to those relating to:

a. Faulty work appearing after substantial completion has been granted;

b. Work that does not comply with the Contract Documents; or

c. Failure of Contractor to comply with any special guarantees required by the Contract Documents.

Progress payments may be withheld if Work is found defective and not remedied; CONTRACTOR does not provide consent of surety with each progress application a subcontractor is damaged by an act for which CONTRACTOR is responsible; ; or in the opinion of the OWNER, CONTRACTOR'S work is not progressing satisfactorily. Further, OWNER may withhold additional payment in anticipation of liquidated damages equal to the product of the number of Days after the scheduled Contract Time (Substantial Completion or Final Completion) and the amount of liquidated damages set forth in this Contract if CONTRACTOR is behind schedule and it is anticipated by OWNER that the Work will not be completed within the Contract Time. The additional payment, under this subsection, may at the OWNER'S discretion be withheld from subsequent Progress Payments.

The City, by written change order and without invalidating the Agreement, may order extra Work or make changes by altering, adding to, or deducting from the Work, the contract sum being adjusted accordingly. Additional time required for any change in Work must be included with the requested Change Order.

In giving instructions, the City's Project Manager will have authority to make minor changes in the Work, not involving extra cost or time, and not inconsistent with the purpose of the Work, but otherwise, except in an emergency endangering life or property, no extra work or change will be made unless it goes through the City's written Change Order process and is approved by the City, and no claim for an addition to the contract sum or time will be valid unless so ordered in writing.

The value of any such extra Work or change will be determined in one or more of the following ways:

1. By mutual acceptance of a lump sum.
2. By unit prices named in the contract or subsequently agreed upon.
3. By cost and percentage or by cost and a fixed fee.

If none of the above methods is agreed upon, the CONTRACTOR, provided it receives an order as above, shall proceed with the work. In such case and also under case (3) above, the CONTRACTOR shall keep and present in such form as the City's Project Manager may direct, a correct account of the actual cost of labor and materials, substantiated by back-up documentation. In any case, the City's Project Manager will certify to the amount, including reasonable allowances for overhead and profit, due to the CONTRACTOR. Pending final determination of value, payments on account of changes will be made on the City's Project Manager's estimate. Furthermore, if the CONTRACTOR claims that any instructions by drawings or otherwise involve extra cost under the Contract Documents, it shall give the City written notice thereof within ten (10) days after the receipt of such instructions, and in any event before proceeding to execute the work, except in emergency endangering life or property, and the procedure shall then be as provided above under this section. Claims will not be processed unless filed in writing before any work has commenced. In addition, if the City's Project Manager deems it appropriate the City may accept defective or incomplete work and an equitable deduction from the Contract Price will be made therefor by Change Order.

14. **DESIGNATION OF PROJECT MANAGER OR ARCHITECT OR LANDSCAPE ARCHITECT: DUTIES AND AUTHORITY** - The duties and authority of the OWNER are as follows:

a. **General Administration of Contract**. The primary function of the OWNER is to provide the general administration of the contract. In performance of these duties, Gary Palmer, Facilities and Grounds Manager, Attn: gpalmer@cocoafl.gov, or his authorized representative is the OWNER's Project Manager during the entire period of construction. The OWNER (CITY) may change the Project Manager during the term of this contract.

b. **Inspections, Opinions, and Progress Reports.** The OWNER and its representatives shall be kept familiar with the progress and quality of the work by CONTRACTOR and may make periodic visits to the work site. The OWNER will not be responsible for the means of construction, or for the sequences, methods, and procedures used therein, or for the CONTRACTOR's failure to perform the work in accordance with the Contract Documents.

c. **Access to Worksite for Inspections.** The OWNER and its representatives shall be given free access to the worksite at all times during work preparation and progress. The Project Manager is not obligated to make exhaustive or continuous on-site inspections to perform his duties of checking and reporting on work progress, and any such inspections shall not waive Owner's claim regarding defective work by Contractor. No inspector is authorized to change any provision of the specifications without written authorization of the City's Project Manager, nor shall the presence or absence of an inspector relieve the CONTRACTOR from any requirements of the Contract Documents.

If the specifications, the City's instructions, laws, ordinances, or any public authority, require any work to be specially tested or approved, the CONTRACTOR shall give the City timely notice of its readiness for inspection, and of the date fixed for such inspection. Inspections by the City's Project Manager will be promptly made.

If upon inspection such work is found not in accordance with the Contract Documents, the CONTRACTOR shall pay such cost, including compensation for professional services, and an appropriate deductive Change Order shall be issued.

d. **Interpretation of Contract Documents: Decisions on Disputes.** The OWNER will be the initial interpreter of the contract document requirements, and make decisions on claims and disputes between Contractor and Owner.

e. **Rejection and Stoppage of Work.** The OWNER shall have authority to reject work which in its opinion does not conform to the Contract Documents, and in this connection may stop the work or a portion thereof, when necessary.

f. **Payment Certificates.** The OWNER will determine the amounts owing to CONTRACTOR as the work progresses, based on CONTRACTOR's applications and OWNER's inspections and observations, and will issue certificates for progress payments and final payments in accordance with the terms of the Contract Documents.

g. **City Reviews and Status.** The City's review, inspection, or approval of any Work, applications for payment, or other submittals shall be solely for the purpose of determining whether the same are generally consistent with the City's scope and requirements for the project. No review, inspection, or approval by the City of such Work or documents shall relieve the CONTRACTOR of its responsibility for the performance of its obligations under the Contract Documents or the accuracy, adequacy, fitness, suitability, or coordination of the Work. Approval by any governmental or other regulatory agency or other governing body of any Work, design document, or construction document shall not relieve CONTRACTOR of responsibility for the performance of its obligations under the Contract Documents. Payment by the City pursuant to the Contract Documents shall not constitute a waiver of any of the City's rights under the Contract Documents or at law, and CONTRACTOR expressly accepts the risk that defects in its performance, if any, may not be discovered until after payment, including final payment, is made by the City. Notwithstanding the foregoing, prompt written notice shall be given by the City or City Project Manager to the CONTRACTOR if the City becomes aware of any fault or defect in the Projects or non-conformance with the Contract Documents. Furthermore, the City shall not have control or charge of construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, nor shall the CONTRACTOR, for any of the foregoing purposes, be deemed the agent of the City.

15. **PROGRESS MEETINGS** – OWNER'S Project Manager may hold periodic progress meetings on a monthly basis, or more frequently if required by the OWNER, during the term of work entered into under this Agreement. CONTRACTOR's Project Manager and all other appropriate personnel shall attend such meetings as designated by the OWNER'S Project Manager.

16. **RESPONSIBILITIES OF CONTRACTOR** - CONTRACTOR's duties and rights in connection with the project herein are as follows:

a. **Responsibility for Supervision and Construction**. CONTRACTOR shall be solely responsible for all construction under this contract, including the techniques, sequences, procedures and means, for the coordination of all work. CONTRACTOR shall supervise and direct the work, and give it all attention necessary for such proper supervision and direction.

b. **Discipline and Employment.** CONTRACTOR shall maintain at all times strict discipline among his employees, and he agrees not to employ for work on the project any person unfit or without sufficient skill to perform the job for which he was employed.

c. **Furnishing of Labor, Materials, etc.** CONTRACTOR shall provide and pay for all labor, materials and equipment, including tools, construction equipment and machinery, utilities, including water, transportation, and all other facilities and work necessary for the proper completion of work on the project in accordance with the Contract Documents.

d. **Payment of Taxes: Procurement of Licenses and Permits.** CONTRACTOR shall secure all licenses and permits necessary for proper completion of the work, paying the fees thereof. CONTRACTOR warrants that it (and subcontractors or tradesmen, if authorized in the Contract Documents) hold or will secure all trade or professional licenses required by law for CONTRACTOR to undertake the contract work.

e. **Guarantee.** The CONTRACTOR hereby guarantees the Work to the full extent provided in the Plans, Specifications, General Conditions, Special Conditions and other Contract Documents. The CONTRACTOR shall remove, replace and/or repair at its own expense and at the convenience of the OWNER any faulty, defective or improper Work, materials or equipment discovered within one (1) year from the date of the acceptance of the project as a whole by the Owner or for such longer period as may be provided in the Plans, Specifications, General Conditions, Special Conditions or other Contract Documents. Without limiting the generality of the foregoing, the CONTRACTOR warrants to the OWNER, that all materials and equipment furnished under this Agreement will be of first class quality and new, unless otherwise required or permitted by the other Contract Documents, that the Work performed pursuant to this Agreement will be free from defects and that the Work will strictly conform with the requirements of the Contract Documents. Work not conforming to such requirements, including substitutions not properly approved and authorized, shall be considered defective. All warranties contained in this Agreement and in the Contract Documents shall be in addition to and not in limitation of all other warranties or remedies required and/or arising pursuant to applicable law. Furthermore, CONTRACTOR will provide written guarantee for work and materials for one (1) calendar year after acceptance by OWNER. The one (1) period is not a limitation upon manufacturer warranties or CONTRACTOR's payment and performance Bond(s).

f. **Project Site.** The CONTRACTOR shall, among other things, (i) visit and thoroughly inspect the project site and any structure(s) or other man-made features to be modified and become familiar with local conditions under which the project will be constructed and operated; (ii) if applicable, familiarize itself with the survey, including the location of all existing buildings, utilities, conditions, streets, equipment, components, and other attributes

having or likely to have an impact on the project; (iii) familiarize itself with the City's layout and design requirements, conceptual design objectives, and budget for the project; (iv) familiarize itself with pertinent Project dates, including the Project Schedule; (v) review and analyze all project geotechnical, hazardous substances, structural, chemical, electrical, mechanical, and construction materials tests, investigations, and recommendations; and (vi) gather any other information necessary for a thorough understanding of the project. If the project involve modifications to any existing structure(s) or other man-made feature(s) on the project site, the CONTRACTOR shall also review all as-built and record drawings, plans, and specifications of adjacent work which the CONTRACTOR requests from the City , and shall thoroughly inspect the existing structure(s) and man-made feature(s) to identify existing deficiencies and ascertain the specific locations of pertinent structural components. Claims by the CONTRACTOR resulting from its failure to familiarize itself with the project site or pertinent documents shall be deemed waived.

17. **ASSIGNMENT -** CONTRACTOR shall not assign this Agreement, or any rights or any monies due or to become due hereunder without the prior, written consent of the OWNER.

a. CONTRACTOR shall be fully responsible to OWNER for all acts and/or omissions performed by its subcontractors.

b. If CONTRACTOR, prior to the commencement of any Work subcontracts any part of this Agreement by the subcontractor, CONTRACTOR shall require the subcontractor to provide OWNER and its affiliates with insurance coverage as set forth by the OWNER.

18. **THIRD PARTY RIGHTS -** Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than OWNER and CONTRACTOR.

19. **PROHIBITION AGAINST CONTINGENT FEES -** CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

20. **NO JOINT VENTURE -** Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties and neither party is authorized to, nor shall either party act toward third persons or the public in any manner which would indicate any such relationship with the other party.

21. **INDEMNIFICATION –** CONTRACTOR shall indemnify and hold harmless the OWNER, its officers, employees, agents, engineer, and city attorneys (individually and in their official capacity, from liability, losses, damages, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of CONTRACTOR and persons employed or utilized by CONTRACTOR in the performance of this Agreement.

CONTRACTOR specifically assumes potential liability for actions brought by CONTRACTOR'S own employees against the OWNER and, solely for the purpose of this

indemnification and defense, CONTRACTOR specifically waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. This waiver has been specifically and mutually negotiated by the parties.

The indemnification provided above shall obligate the CONTRACTOR to defend at its own expense or to provide for such defense, at the option of the OWNER, as the case may be, of any and all claims of liability and all suits and actions of every name and description that may be brought against the OWNER or its officers, employees, and city attorneys which may covered by this indemnification. In all events the OWNER and its officers, employees, engineer, and city attorneys shall be permitted to choose legal counsel of its sole choice, the fees for which shall be reasonable and subject to and included with this indemnification provided herein.

In consideration of the CONTRACTOR's indemnity obligations, the parties allocate ONE PERCENT (1%) OF THE CONTRACT SUM as specific consideration for CONTRACTOR's indemnification of OWNER and that the specific consideration is included in the original Contract Price allocated by CONTRACTOR among all pay items - receipt of which is acknowledged.

The indemnity provisions set forth in this Paragraph shall survive termination of this Agreement.

22. **SAFETY -** CONTRACTOR shall be solely and absolutely responsible and assume all liability for the safety and supervision of its principals, employees, contractors, and agents while performing work provided hereunder. More specifically, the CONTRACTOR shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. The CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

1. All employees on the project site and other persons who may be affected thereby.
2. All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the project site.
3. Other property at the project site or adjacent thereto.

CONTRACTOR shall comply with all applicable Federal Occupational Safety and Health Administration (OSHA) and Florida Department of Transportation safety standards and shall assure and monitor the compliance of its Subcontractors with those same standards.

Further, CONTRACTOR shall work in compliance with the OSHA Hazardous Communication Standard and Florida Department of Environmental Protection guidelines, and shall supply all information about hazardous chemical being brought onto City property as required by any applicable City Safety and Loss Control Program.

23. **CORPORATE REPRESENTATIONS BY CONTRACTOR -** CONTRACTOR hereby represents and warrants to the OWNER the following:

a. CONTRACTOR is duly registered and licensed to do business in the State of Florida and is in good standing under the laws of Florida, and is duly qualified and authorized to carry on the functions and operations set forth in this Agreement.

b. The undersigned signatory for CONTRACTOR has the power, authority, and the legal right to enter into and perform the obligations set forth in this Agreement and all applicable exhibits thereto, and the execution, delivery, and performance hereof by CONTRACTOR has been duly authorized by the board of directors and/or president of CONTRACTOR. In support of said representation, CONTRACTOR agrees to provide a copy to the OWNER of a corporate certificate of good standing provided by the State of Florida prior to the execution of this Agreement.

c. CONTRACTOR is duly licensed under all local, state and federal laws to provide the work stated in paragraph 1.0 herein. In support of said representation, CONTRACTOR agrees to provide a copy of all said licenses to the OWNER prior to the execution of this Agreement.

24. **~~BOND~~** ~~– CONTRACTOR shall supply a materials, performance and payment bond(s) in accordance with Florida law and in substantially in conformance with the forms attached to the Agreement as **Exhibit "A"** and approved by the City Attorney. The materials, performance, and payment amounts shall be in an amount equal to 100% of the Contract Price for the work prescribed herein. The issuance of bonds required under this Agreement shall not relieve Contractor of any liability under the Agreement. Contractor shall remain jointly and severally liable with any surety issuing a bond under the Contract. The premium for such bonds is included in the Contract Price.~~ – Not applicable

25. **INSURANCE -** During the term of this Agreement, CONTRACTOR shall be responsible for providing the types of insurance and limits of liability as set forth under this Paragraph. Additionally, all independent contractors or agents employed by CONTRACTOR to perform any Work hereunder shall fully comply with the insurance provisions contained in these Contract Documents.

a. The CONTRACTOR shall maintain comprehensive general liability insurance in the minimum amount of $2,000,000 as the combined single limit for each occurrence to protect the CONTRACTOR from claims of property damages which may arise from any Work performed under this Agreement whether such Work are performed by the CONTRACTOR or by anyone directly employed by or contracting with the CONTRACTOR.

b. The CONTRACTOR shall maintain comprehensive automobile liability insurance in the minimum amount of $1,000,000 combined single limit bodily injury and minimum $1,000,000 property damage as the combined single limit for each occurrence to protect the CONTRACTOR from claims for damages for bodily injury, including wrongful death, as well as from claims from property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the CONTRACTOR or by anyone directly or indirectly employed by the CONTRACTOR.

c. The CONTRACTOR shall maintain, during the life of this Agreement, adequate Workers' Compensation Insurance in at least such amounts as are required by law and Employer's Liability Insurance in the minimum amount of $2,000,000 for all of its employees performing Work for the OWNER pursuant to this Agreement.

d. The CONTRACTOR shall maintain comprehensive builder risk insurance, which shall cover CONTRACTOR'S labor, and any materials and equipment to be used for completion of the Work performed under this Agreement, against all risks of direct physical loss, excluding earthquake and flood, for a minimum amount of the Total Contract Price. CONTRACTOR shall maintain the builder risk insurance required by this subsection until final completion.

Current, valid insurance policies meeting the requirements herein identified shall be maintained during the term of this Agreement. A copy of a current Certificate of Insurance shall be provided to the OWNER by CONTRACTOR upon the Effective Date of this Agreement which satisfied the insurance requirements of this Paragraph 25. Renewal certificates shall be sent to the OWNER 30 days prior to any expiration date. There shall also be a 30-day advance written notification to the OWNER in the event of cancellation or modification of any stipulated insurance coverage. **The OWNER and its engineer shall be an additional named insured on all stipulated insurance policies as its interest may appear, from time to time, excluding worker's compensation and professional liability policies**.

Insurance covering the specified additional insureds shall be primary insurance, and all other insurance carried by the additional insured shall be excess insurance; and with respect to workers' compensation and employer's liability, comprehensive automobile liability, commercial general liability, and umbrella liability insurance, CONTRACTOR shall require CONTRACTOR's insurance carriers to waive all rights of subrogation against OWNER and its engineer, the engineer's consultants, and their respective officers, directors, partners, employees and agents.

Each policy shall contain a cross liability or severability of interest clause or endorsement.

26. **MEDIATION/VENUE** - The parties agree that should any dispute arise between them regarding the terms or performance of this Agreement, both parties will participate in mediation. The parties agree to equally share the cost of the mediator. Should the parties fail to resolve their differences through mediation, then any cause of action filed hereunder shall be filed in the Circuit or County Court for BREVARD County, Florida. The Contractor's surety is bound by this provision.

27. **GOVERNING LAW & VENUE -** This Agreement is made and shall be interpreted, construed, governed, and enforced in accordance with the laws of the State of Florida. Venue for any state action or litigation shall be BREVARD County, Florida. Venue for any federal action or litigation shall be Orlando, Florida. The Contractor's surety is bound by this provision.

28. **ATTORNEY'S FEES -** Should either party bring an action to enforce any of the terms of this Agreement, each party shall bear its own costs and expenses of such action including, but not limited to, reasonable attorney's fees, whether at settlement, trial or on appeal. This provision does not apply to Contractor's surety.

29. **NOTICES** - Any notice or approval under this Contract shall be sent, postage prepaid, to the applicable party at the address shown on the first page of this Contract.

30. **WORK IS A PRIVATE UNDERTAKING -** With regard to any and all Work performed hereunder, it is specifically understood and agreed to by and between the parties hereto that the contractual relationship between the OWNER and CONTRACTOR is such that the CONTRACTOR is an independent contractor and not an agent of the OWNER. The CONTRACTOR, its contractors, partners, agents, and their employees are independent contractors and not employees of the OWNER. Nothing in this Agreement shall be interpreted to establish any relationship other than that of an independent contractor, between the OWNER, on one hand, and the CONTRACTOR, its contractors, partners, employees, or agents, during or after the performance of the Work under this Agreement.

31. **DOCUMENTS - Public Records**: It is hereby specifically agreed that any record, document, computerized information and program, audio or video tape, photograph, or other writing of the CONTRACTOR and its independent contractors and associates related, directly or indirectly, to this Agreement, may be deemed to be a Public Record whether in the possession or control of the OWNER or the CONTRACTOR. Said record, document, computerized information and program, audio or video tape, photograph, or other writing of the CONTRACTOR is subject to the provisions of Chapter 119, Florida Statutes, and may not be destroyed without the specific written approval of the OWNER's City Manager. Upon request by the OWNER, the CONTRACTOR shall promptly supply copies of said public records to the OWNER. All books, cards, registers, receipts, documents, and other papers in connection with this Agreement shall at any and all reasonable times during the normal working hours of the CONTRACTOR be open and freely exhibited to the OWNER for the purpose of examination and/or audit. Failure by CONTRACTOR to grant such access and comply with public records laws and/or requests shall be grounds for immediate unilateral cancellation of this Agreement by the OWNER upon delivery of a written notice of cancellation. If CONTRACTOR fails to comply with this Section, and the OWNER must enforce this Section, or the OWNER suffers a third party award of attorney's fees and/or damages for violating Chapter 119, Florida Statutes, due to CONTRACTOR's failure to comply with this Section, the OWNER shall collect from CONTRACTOR prevailing party attorney's fees and costs, and any damages incurred by the City, for enforcing this Section against CONTRACTOR. And, if applicable, the OWNER shall also be entitled to reimbursement of all attorneys' fees and damages which the OWNER had to pay a third party because of the CONTRACTOR's failure to comply with this Section. The terms and conditions set forth in this Section shall survive the termination of this Agreement.

The CONTRACTOR acknowledges that the OWNER is a Florida municipal corporation and subject to the Florida Public Records Law. CONTRACTOR agrees that to the extent any document produced by CONTRACTOR under this Agreement constitutes a Public Record; CONTRACTOR shall comply with the Florida Public Records Law.

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 AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, THE CITY CLERK, AT (321) 433-8484, cshealy@cocoafl.org, Carie Shealy, City Clerk's Office, 65 Stone Street, Cocoa, Florida 32922.

32. **SOVEREIGN IMMUNITY** - The OWNER intends to avail itself of the benefits of Section 768.28, Florida Statutes and any other statutes and common law governing sovereign immunity to the fullest extent possible. Neither this provision nor any other provision of this Agreement

shall be construed as a waiver of the OWNER's right to sovereign immunity under Section 768.28, Florida Statutes, or other limitations imposed on the OWNER's potential liability under state or federal law. CONTRACTOR agrees that OWNER shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, OWNER shall not be liable for any claim or judgment, or portion thereof, to any one person for over two hundred thousand dollars ($200,000.00), or any claim or judgment, or portion thereof, which, when totaled with all other claims or judgments paid by the State or its agencies and subdivisions arising out of the same incident or occurrence, exceeds three hundred thousand dollars ($300,000.00). Nothing in this Agreement is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. This paragraph shall survive termination of this Agreement.

33. **HEADINGS** - Paragraph headings are for the convenience of the parties only and are not to be construed as part of this Agreement.

34. **INTEGRATION; MODIFICATION** - The drafting, execution, and delivery of this Agreement by the Parties has been induced by no representations, statements, warranties, or agreements other than those expressed herein. This Agreement embodies the entire understanding of the parties, and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof unless expressly referred to herein. Modifications of this Agreement shall only be made in writing signed by both parties.

35. **WAIVER AND ELECTION OF REMEDIES -** Waiver by either party of any terms, or provision of this Agreement shall not be considered a waiver of that term, condition, or provision in the future. No waiver, consent, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each party hereto. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be considered an original agreement; but such counterparts shall together constitute but one and the same instrument.

36. **DRAFTING** - OWNER and CONTRACTOR each represent that they have both shared equally in drafting this Agreement and no party shall be favored or disfavored regarding the interpretation of this Agreement in the event of a dispute between the parties.

37. **NOTICE** - Any notices required to be given by the terms of this Agreement shall be delivered by hand or mailed, certified mail, return receipt requested, postage prepaid to:

For CONTRACTOR:

Company Name:	Sapphire Elevator LLC
Attn:	Paul Friedl, Operating Manager
Address:	7013 N. Atlantic Ave.
	Cape Canaveral, FL 32920
Phone:	(321) 501-2121
Email:	paul@sapphireelevator.com

For OWNER:

City of Cocoa
Attn: City Manager
65 Stone Street
Cocoa, Florida
321-433-8660

Either party may change the notice address by providing the other party written notice of the change. Any Notice given as provided herein shall be deemed received as follows: if delivered by personal service, on the date so delivered; if delivered to an overnight courier service, on the business day immediately following delivery to such service; and if mailed, on the third business day after mailing.

38. **CONFLICT OF INTEREST**.

a. The CONTRACTOR agrees that it will not engage in any action that would create a conflict of interest in the performance of its obligations pursuant to this Contract with the OWNER or which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government and the OWNER's Personnel Policies.

b. The CONTRACTOR hereby certifies that no officer, agent or employee of the OWNER has any material interest (as defined in Section 112.312 (15), Florida Statutes, as over five percent (5%) either directly or indirectly, in the business of the CONTRACTOR to be conducted here, and that no such person shall have any such interest at any time during the term of this CONTRACT.

c. Pursuant to Section 216.347, Florida Statutes, the CONTRACTOR hereby agrees that monies received from the OWNER pursuant to this Agreement will not be used for the purpose of lobbying the Legislature or any other State or Federal Agency.

39. **ADDITIONAL ASSURANCES**.

a. No principal (which includes officers, directors, or executive) or individual holding a professional license and performing Work under this Agreement is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any Work required by this Agreement by any Federal, State, or local governmental commission, department, corporation, subdivision, or agency;

b. No principal (which includes officers, directors, or executive), individual holding a professional license and performing Work under this Agreement, employee, or agent has employed or otherwise provided compensation to, any employee or officer of the OWNER; and

c. No principal (which includes officers, directors, or executive), individual holding a professional license and performing Work under this Agreement, employee or agent has willfully offered an employee or officer of the OWNER any pecuniary or other benefit with the intent to influence the employee or officer's official action or judgment.

40. **E-VERIFY -** Pursuant to section 448.095, Florida Statutes, beginning January 1, 2021, any City contractors shall register with and use the U.S. Department of Homeland Security's E-Verify system, https://e-verify.uscis.gov/emp, to verify the work authorization status of all employees hired on and after January 1, 2021. City Contractors must provide evidence of compliance with section 448.095, Florida Statutes. Evidence shall consist of an affidavit from the Contractor stating all employees hired on and after January 1, 2021 have had their work authorization status verified through the E-Verify system and a copy of their proof of registration in the E-Verify system. Failure to comply with this provision will be a material breach of the contract, and shall result in the immediate termination of the contract without penalty to the City. The City Contractor shall be liable for all costs incurred by the City securing a replacement contract, including but not limited to, any increased costs for the same services, any costs due to delay, and rebidding costs, if applicable. If the City Contractor utilizes Subcontractors the following shall apply:

a. Contractor shall also require all subcontractors performing work under the Agreement to use the E-Verify system for any employees they may hire during the term of the Agreement.

b. Contractor shall obtain from all such subcontractors an affidavit stating the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, as defined in section 448.095, Florida Statutes.

c. Contractor shall provide a copy of all subcontractor affidavits to the City upon receipt and shall maintain a copy for the duration of the Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seal on the date first above written.

OWNER
CITY OF COCOA

By: _____
Michael Blake, Mayor

Date: 03/14/2023

ATTEST:

_____
Carie Shealy, City Clerk

CONTRACTOR

SAPPHIRE ELEVATOR LLC

By: _____
Paul Friedl, Operation Manager

Date: 3/1/2023

STATE OF Florida
COUNTY OF Brevard

The foregoing instrument was acknowledged before me by means of (✓) physical presence or (__) online notarization, this 1st day of March, 2023 by _____, the _____ of Paul Friedl, who is personally known to me or who produced FL DL as identification and who did take an oath.

BRITTANY BURNS
Notary Public - State of Florida
Commission # HH 332005
My Comm. Expires Nov 14, 2026

_____
(Notary Public Signature)
Brittany Burns
(Print Name)
Notary Public, State of Florida
Commission No.: HH332005
My Commission Expires: Nov. 14, 2026

EXHIBIT A

~~Performance and Payment Bond~~

Not used

EXHIBIT B

ITB B-23-15-COC
Published January 17, 2023

EXHIBIT C

Sapphire Elevator LLC Response
Dated February 17, 2023

RESOLUTION NO. 2023- 024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AMENDING THE CITY OF COCOA BUDGET FOR FISCAL YEAR 2023; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Cocoa adopted the final budget for the fiscal year commencing on October 1, 2022, and ending on September 30, 2023, at a Regular meeting held on September 27, 2022; and

WHEREAS, in accordance with Article XII, Section 5 of the City of Cocoa Charter, whereby the Council may, at any time by resolution, transfer any unused and unencumbered appropriation or portion thereof from one office or department to another; and

WHEREAS, the City Council deems it to be in the best interest of the City of Cocoa to amend its budget as provided in this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, as follows:

SECTION 1. The 2022-2023 fiscal year budget shall be amended as detailed in the attached sheets.

SECTION 2. All prior resolutions or prior resolutions inconsistent with this resolution are hereby repealed to the extent of the conflict.

SECTION 3. This resolution shall become effective immediately upon its adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, at the Budget Workshop assembled on the 14th day of March, 2023.

_____
Michael C. Blake, Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk

City of Cocoa Budget Adjustment Form FY 2023 - 23-047-A

SELECT ADJUSTMENT TYPE: BUDGET AMENDMENT | REQUESTING DEPARTMENT #: 3560 | DATE PREPARED: 02/21/23

'REVENUE' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 74,143	001-0000-389.99-50	PW23PE	Fund Balance	$ 0	$ 0	$ 74,143	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 74,143	TOTAL						

'EXPENSE' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 74,143	001-3560-519.62-00	PW23PE	Capital - Buildings	$ 0	$ 0	$ 74,143	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 74,143	TOTAL						

REASON/JUSTIFICATION FOR ADJUSTMENT:

The use of General Fund, Fund Balance is required to award Bid B 23-15-COC for the elevator upgrade at the Historic Cocoa Village Playhouse. Agenda 23-133.

Council/Board APPROVAL REQUIRED? *YES* (●) *NO* ( ) **DATE APPROVED:** 03/14/23 **RESOLUTION #:**

City Council approval is needed for all transfers greater than $50,000 and transfers between Departments / Funds. All CRA adjustments are required to go their respective boards.

2/21/23	Frank Mirabito Digitally signed by Frank Mirabito Date: 2023.02.21 15:04:23 -05'00'	2/28/23	Colleen Campbell Digitally signed by Colleen Campbell Date: 2023.02.28 10:56:25 -05'00'		
Date	Requestor's Signature	Date	Finance Approval Signature	Date	Finance Director's Signature
	Bryant Smith Digitally signed by Bryant Smith Date: 2023.02.21 17:42:09 -05'00'	3/1/23	Lora Howell Digitally signed by Lora Howell Date: 2023.03.01 11:11:59 -05'00'		
Date	Department Director's Signature	Date	Deputy Fin. Director's Signature	Date	City Manager's Signature

FINANCE USE ONLY:

Date Entered: _____ Entered By: _____ Group #: _____

RESOLUTION NO. 2023-025

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA; AUTHORIZING THE CITY MANAGER TO APPROVE AND EXECUTE CHANGE ORDERS TO THE CONTRACT FOR THE UPGRADE OF THE HISTORIC COCOA VILLAGE PLAYHOUSE ELEVATOR IN AN AMOUNT NOT TO EXCEED THE TOTAL AMOUNT BUDGETED FOR THE PROJECT BY THE CITY COUNCIL INCLUSIVE OF THE $7,060 CONTINGENCY SET ASIDE FOR THE PROJECT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, section 2-4 of the City Code provides that with respect to construction contracts approved by the City Council, the City Council may authorize by resolution the City Manager to approve change orders to the primary construction contract related to the completion of the construction project authorized by the City Council in excess of the spending authority limits under this section provided the amount is within the unexpended construction budget approved by the City Council for the project including any contingency funds approved by the City Council for said contract; and

WHEREAS, in conjunction with this authorization, the City Council desires to streamline the approval of change orders to the extent necessary in order to expedite the construction of the project; and

WHEREAS, the City Council deems it to be in the best interest of the City of Cocoa to authorize the City Manager to approve the aforementioned change orders consistent with the terms of this Resolution and Section 2-4 of the City Code even if said amounts exceed the City Manager's general spending authority approved by the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, as follows:

SECTION 1.

(A) Pursuant to Section 2-4 of the City Code, the City Manager is hereby authorized to approve any change orders to the primary construction contract, provided the total amount of approved change orders do not cause the construction budget to exceed the total $74,143 budgeted by the City Council for this project inclusive of the $7,060 contingency amount set aside for the project. This grant of spending authority shall be interpreted and construed in accordance with the provisions of Section 2-4 of the City Code.

(B) Pursuant to Section 2-4 of the City Code, the City Manager shall also provide notice of any such approved change orders to the City Council in the form of an agenda item at the next scheduled City Council meeting or as soon as practicable thereafter.

SECTION 2. All prior resolutions or prior resolutions inconsistent with this resolution are hereby repealed to the extent of the conflict.

SECTION 3. This resolution shall become effective immediately upon its adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on March 14, 2023.

_____
Michael C. Blake, Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	**Solicitation Number: ITB B-23-15-COC**
	INVITATION TO BID (ITB)	**Due Date: 02/17/2023**
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Issuance | Release Date: Tuesday, January 17, 2023
To: All Prospective Bidders
From: Brian Dale, Purchasing Manager

The City of Cocoa is accepting sealed bids from all licensed, qualified firms or individuals interested in providing the construction services as described in this Invitation to Bid (ITB).

Summary of Project:
The City of Cocoa is soliciting for a contractor to provide the labor, material, and equipment to modernize the elevator located at the Cocoa Village Historic Playhouse 300 Brevard Avenue, Cocoa, Florida, 32922. The existing elevator controllers are no longer available, requiring replacement and updating. This work includes new controls and updates required to meet modern codes and the ADA act.

If you are interested in preparing a response to this ITB, please read the requirements carefully and complete the bid in the manner as set forth in this ITB document. Your response is considered a binding offer to perform in the manner described in the bid response and shall remain a firm offer for a period of ninety-day (90) days from public opening.

There will be a NON-MANDATORY Pre-Bid conference and site walk through held for this project on Thursday, February 2, 2023 at 10:00am EST at the Cocoa Village Historic Playhouse, 300 Brevard Avenue, Cocoa, Florida, 32922.

Questions regarding this solicitation must be received in writing at the address above no later than Wednesday, February 8, 2023 at 5:00pm EST. Responses to those questions considered material to the solicitation shall be distributed via formal addenda and posted to the City of Cocoa website: https://www.cocoafl.gov and to the City's online bidding platform, Vendor Link, http://www.myvendorlink.com.

All Bidders are advised that under Chapter 119, Florida Statutes, all responses are deemed a public record and open to the public as provided for in said statute.

The successful Bidder(s) must demonstrate in their submittal to be the lowest, most responsible, and responsive Bidder which best meets the specifications and serves the overall needs of the City. Bids should be prepared in accordance with the ITB instructions and recheck all bid prices thoroughly. Failure to provide the response in the manner prescribed herein may be grounds for disqualification of the submittal.

All services performed shall be in accordance with the specifications pertaining thereto, which may be examined at the office of the Purchasing & Contracts Manager, located at 65 Stone St., Cocoa, Florida 32922. Copies of all documents, including blank bid/proposal forms, may be obtained from Vendor Link by visiting their web site at http://www.myvendorlink.com. You may contact the City of Cocoa Purchasing Division by email: purchasing@cocoafl.gov. Small Business Set Asides (i.e., Woman Owned, Minority, Veteran, Disadvantaged etc.) are encouraged to submit bid/proposals concerning this solicitation.

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	**Solicitation Number: ITB B-23-15-COC**
	INVITATION TO BID (ITB)	**Due Date: 02/17/2023**
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

The City reserves the right to waive any and all technicalities, formalities and to reject any or all bid submittals or to re-advertise for bid submittals for these commodities/services. The City may withdraw all or part of this ITB at any time to protect the interests of the City. Thank you for your interest in doing business with the City of Cocoa, Florida.

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

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SECTION 1 INTRODUCTION

1.01 DESCRIPTION OF WORK

The scope of services required for the turn-key removal, replacement and startup of the existing elevator equipment are as follows:

1. Retain 2500 Capacity Car/Cab Enclosure – Replace / refurbish wheels and rollers
2. New in car/cab operating panel with vandalism resistant fixtures. Update Emergency Lighting.
3. New non-proprietary motion control system including logic controller
4. New travel limit switches
5. New door and entrance operators.
6. New Hall Fixtures using one-inch display with vandalism resistant fixture
7. New hydraulic motor, pump, valves, oil, and muffler
8. New Fire Alarm / Call Phone / Connection to future Silent Knight fire alarm panel
9. New related wiring as necessary
10. Retain existing pit, refurbish as necessary
11. Provide 2 as-built sets of drawings including wiring schematics

Contractor will be responsible for obtaining all required permits. Contractor will guarantee work for the period of one year for all parts, and labor in accordance with section 4.10 of this ITB.

1.02 MINIMUM QUALIFICATIONS

Bidders responding to this ITB must demonstrate experience and qualifications in performing work similar in size and complexity to this project. Each Bidder must submit the following required information:

1. Qualified Contractor should have a relevant license to install elevators for the work described.
2. Contractor should be familiar with all codes, certifications, qualifications, and permit requirements for this work. This includes ADA with braille.
3. Previous Experience and References: Contractor shall have previous experience similar to the work described. Provide a brief description of work, including location, dates of contract, names, addresses, email addresses, and telephone numbers of owners by completing **the Reference Form, Attachment "L" included herein**.
4. Evidence of authority to conduct commercial business in the State of Florida - Provide Sunbiz report showing your company registered as "Active".
5. Professional Licenses – Provide all licenses that qualify the firm for the type of work as identified herein.

6. Note if you are not a single prime contractor, you will be required to list, using attachment "K" all subcontractors to be used for this project and their professional licenses.
7. Provide a completed W9 according to section 4.02 of this request.
8. Complete in full all required attachments associated with this request.

1.03 PROJECT COMPLETION TIME

The successful bidder shall commence work within Ten (10) days after having been issued a notice to proceed (NTP) which may be in the form of a purchase order issued by the City. The City will coordinate with the successful bidder regarding the installation schedule around the Playhouse events. The Work will be substantially complete within Thirty (30) days after the notice to proceed. Final completion will be within Thirty (30) days of substantial completion. NTP issuance will be coordinated based on equipment lead times substantiated by the manufacturer.

1.04 SOLICITATION SCHEDULE (This schedule may be revised, as needed)

Tentative Schedule (all Local Times)	
Task	**Date**
ITB Released	**Tuesday, 01/17/2023 at 8:00am EST**
Non-Mandatory Pre-Bid Conference	**Thursday, 02/02/2023 at 10:00am EST**
Deadline for Questions	**Wednesday, 02/08/2023 at 5:00pm EST**
Bid Due Date and Time	**Friday, 02/17/2023 at 3:00pm EST**
Anticipated Notice of Intent to Award	**February 2023**
City Council Approval of Contract	**March 2023**

Section 2 INSTRUCTIONS TO BIDDERS

2.01 BID DOCUMENTS

The ITB documents may be obtained at no charge from the City's website at: VendorLink, LLC https://www.myvendorlink.com. The City of Cocoa's Purchasing & Contracts Division, its Website, and its service provider, VendorLink, LLC are the **only authorized** sources for obtaining solicitation documents. Solicitation documents and forms obtained from any other third-party source may be incomplete.

Bidders are encouraged to register as a vendor with VendorLink, LLC to obtain a complete set of solicitation documents and to enable notification of required addenda. Reproduction of these documents without the express permission of the City is prohibited.

The City is not responsible for errors or document omissions occurring in the transmission or downloading of any documents from these websites. In the event of any discrepancy between information on these websites and the hardcopy specifications, the terms of the hardcopy specifications shall prevail. For more information call the Purchasing & Contracts Division at (321) 433-8833. Important: The desire of the City to pursue bid submittals shall in no way obligate the City to compensate you for your efforts or to execute a contract with your firm.

2.02 BID SUBMITTAL AND DELIVERY

A. Sealed bid submittals must be received in the City's Purchasing & Contracts Division no later than the date and time as specified herein. Bid submittals received after the stated date and time will not be accepted and will be returned unopened. Under no circumstances shall bids delivered after the time specified be considered. The City shall not be responsible for any occurrence for bid submittals delivered incorrectly or to the wrong address or location. No exceptions will be made. The decision to refuse to consider a bid that was received beyond the date/time established in the solicitation shall not be the basis of a protest. Bid submittals shall be delivered to the below address in a sealed envelope or packaging material, plainly marked on the outside with the Bid Number, Title and opening date:

City of Cocoa
Attn: Purchasing & Contracts Division
65 Stone Street
Cocoa, Florida 32922

For your convenience, a **Solicitation Response Identification Label** has been provided to properly identify and affix to your ITB response.

B. If submitted by mail, the bid submittal shall be enclosed in a sealed envelope or packaging material addressed to the Purchasing & Contracts Division. Bids submitted by mail must be received by the Purchasing & Contracts Division by the time specified herein for the opening thereof.

1. Please be advised that United States Postal Service (USPS) Express and Priority service class; are delivered to the City once daily. Accordingly, in order for a submission to be received by the Purchasing & Contracts Division when the services of the USPS are used, a Bidder or bidder is responsible for ensuring that their submittal is transmitted in such manner as necessary for the USPS to receive, sort, and deliver to the City by the submittal due date and time.

2. The City only collects other USPS mail one (1) time per day upon opening of the local Post Office branch, which is then sorted by the City for delivery to the Purchasing & Contracts Division and other City departments. Submissions arriving at the USPS after the initial pick-up by the City will be placed in the City's callbox for pick-up and will not be delivered to or received by the Purchasing & Contracts Division until the next business day.

3. When using the USPS or any other mail delivery services, it is the sole responsibility of the Bidder to ensure that Proposals are received in the Purchasing & Contracts Division by the due date and time. The City shall not be responsible for delays caused by any occurrence.

2.03 PUBLIC OPENING

A. Bid submittals will be publicly opened by the Purchasing & Contracts Division on the due date and time, as specified herein, or as soon thereafter as possible. The Bidder's names, the Bid Total and verification of bond submittal, if applicable, will be announced. Sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation are exempt from s. 119.07(1) and s. 24(a), Article I of the State Constitution until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier. All other information will be subject to Florida's Open Government Laws to Public Contracting.

B. A bid summary of the Bids and major alternates (if any) will be prepared and made available within a reasonable time after the opening of Bids.

C. Multiple Bids received for the same Work from an individual, firm or partnership, a corporation or association or other legal entity under the same or different names shall not be considered. If there are reasonable grounds for believing that collusion exists among the Bidders, the Bids of the participants believed to be in such collusion shall not be considered.

D. The City reserves the right to reject any and all Bids, to waive irregularities, and the right to disregard any or all nonconforming, unbalanced or conditional Bids or counter proposals.

E. The City may reject, as non-responsive, Bid submittals that fail to acknowledge receipt of addenda as prescribed, when the addenda results in a material change.

F. If the City elects to accept a Bid which does not acknowledge receipt of an addendum, the Bid shall be construed as though the addendum had been received and acknowledged by the Bidder.

G. Discrepancies between bid sums expressed in words and bid sums expressed in figures shall be resolved in favor of the words. Discrepancies between the sum of any column of figures and the correct sum, shall be resolved in favor of the corrected sum. Discrepancies in the extension of the Unit Price times the estimated quantity for any line item shall be resolved in favor of the correct extension.

2.04 UNBALANCED BIDS

As determined by the City and the Procurement Administrator's discretion, the City may consider a solicitation response irregular and reject it if any of the prices are excessively unbalanced (either above or below the amount of a reasonable response) to the potential detriment of the City. The City further

reserves the right to require backup documentation from the respondent if, in the City's opinion, the prices are, or appear to be, excessively unbalanced.

2.05 ON-LINE SERVICE PROVIDER DISCLAIMER

VendorLink, LLC has no affiliation with the City other than as a service that facilitates communication between the City and its vendors. VendorLink, LLC is an independent entity and is not an agent or representative of the City. Communications to VendorLink, LLC do not constitute communications to the City.

2.06 SOLICITATION DOCUMENTS

The City of Cocoa Purchasing & Contracts Division, its website, and its service provider, VendorLink, LLC are the only authorized sources of solicitation documents/forms. Solicitation documents/forms obtained from any other third-party source may be an incomplete set of documents. Proposers using solicitation documents/forms obtained from any other third-party source are advised to register with VendorLink, LLC to obtain a complete set of solicitation documents and to enable notification of required addenda. Reproduction of these documents without the express permission of the City is prohibited.

2.07 NON-MANDATORY PRE-BID MEETING

There will be a NON-MANDATORY Pre-Bid conference held for this project on Tuesday, February 2, 2023 at 10:00am EST at the Cocoa Village Historic Playhouse 300 Brevard Avenue, Cocoa, Florida, 32922. A site walk through to follow the presentation. Any changes or updates to this meeting including additional instructions will be posted to the City's online bidding platform, Vendor Link, http://www.myvendorlink.com**.**

2.08 CONE OF SILENCE/LOBBYING

A. Lobbying is defined as any action taken by an individual, firm, association, joint venture, partnership, syndicate, corporation, and/or all other groups who seek to influence the governmental decision of a City Council Member, the City Manager, any requesting or evaluating Department/Division/Office personnel and/or any member of the Evaluation Committee concerning an active solicitation during the black-out period.

B. A lobbying black-out period commences upon the issuance of this solicitation document.

C. If an award item is presented to City Council for approval or for a request to provide authorization to negotiate a Contract(s) and the City Council refers the item back to the City Manager, Purchasing & Contracts Division and/or requesting Department/Division/Office for further review or otherwise

does not take action on the item, the Cone of Silence/Lobbying Black-out Period will be reinstated until such time as the City Council meets to consider the item for action.

D. Bidders, respondents, potential vendors, service providers, lobbyists, consultants, or vendor representatives shall not contact any City Council member, the City Manager, any requesting or evaluating Division/Department/Office personnel, and/or any member of the Evaluation Committee concerning an active solicitation during the Cone of Silence/Lobbying Black-out Period.

2.09 INTERPRETATIONS AND QUESTIONS

All questions and inquiries concerning procedural matters shall be directed to the Purchasing & Contracts Division. Any questions relating to the interpretation of specifications or any aspect of the solicitation process shall be addressed to the Purchasing & Contracts Division, in writing, by the date stipulated in the tentative schedule in Section 1.

City of Cocoa
Purchasing & Contracts Division
65 Stone Street
Cocoa, Florida 32922
Phone: (321) 433-8833
Email: purchasing@cocoafl.gov

A. It is the Bidder's responsibility to become familiar with and fully informed with the terms, conditions, and specifications of this ITB. Lack of understanding and/or misinterpretation of any portions of this ITB shall not be cause for withdrawal of your response after opening or for subsequent protest of award.

B. Any interpretations, clarifications, or changes will be made in the form of written addenda issued by the Purchasing & Contracts Division.

C. Any oral communications will not be authoritative and will not be binding on the City.

D. It is the sole responsibility of the Bidder to contact the Purchasing & Contracts Division **prior** to submitting a bid submittal to ascertain if any addenda have been issued, to obtain all such addenda, and to return executed addenda with each bid submittal.

E. Addenda will be available to all proposers and will be uploaded to VendorLink, LLC on the Procurement website at: http://www.myvendorlink.com.

2.10 BID COMPLETENESS AND COMPLIANCE

Bid submittals shall contain the information as required in this solicitation. Failure to submit all information as requested, substantially incomplete or lack key information may be rejected by the City. The following list details the appropriate proposal format:

A. All items contained in the bid must be in total compliance with the specifications of this solicitation.

B. Alternate bids will not be considered unless specifically called for in this solicitation. Bidders' attention is specifically called to the terms, conditions and special provisions of this solicitation. Please be aware that, under the competitive process, the stipulations set forth herein are fully binding on the Bidder to the extent that you confirm acceptance by your signature on **Attachment, Bid Price Schedule and Acceptance of Bid Terms and Conditions**.

2.11 DETERMINING RESPONSIBILITY

The determination as to whether a Bidder is considered responsible shall be at the sole discretion of the City. The City may request information relating to contracts similar to the requirements of this solicitation. The City also reserves the right to reject the bid of a bidder who has previously failed to perform properly or complete projects timely, whose investigations show bidder is not in a position to perform the contract. In determining responsibility, the following qualifications, in addition to price, may be considered:

A. The Bidder's ability, capacity, and skill to provide the goods or to perform the service within the time specified;
B. The character, integrity, reputation, judgement, experience and efficiency of the Bidder;
C. The quality of performance of previous contracts or services including previous performance with the City;
D. The sufficiency of financial resources to meet the obligations of the required contract and to perform the services;
E. Quality Control Program.
F. Contract claims, litigation filed against the Bidder or filed by the Bidder for equitable adjustment; Reprimand of any nature or suspension by the Department of professional Regulation or any other regulatory agency or professional association in the past five (5) years.
G. Ability to provide future maintenance, service, and support of the goods/services under contract; and,
H. Whether the Bidder is in arrears to the City on a debt or a contract or is a defaulter on surety to the City; or whether the Bidder's taxes or assessments are delinquent.
I. Such other information as may be relevant or secured.

2.12 BID FORMS/REPRODUCTION

A. Bid Forms: All bids must be submitted on the City's standard solicitation forms and must include all applicable completed attachments included herein.

B. Reproduction: Please submit one (1) bound original and one (1) on a USB containing the entire bid submittal formatted to be read with Microsoft® software products or Adobe® PDF software.

2.13 BIDDER ACKNOWLEDGEMENT

By submitting a bid response, the Bidder certifies that the Bidder has fully read and understands this ITB document and has full knowledge of the scope, nature, quantity, and quality of work to be performed; the detailed requirements of the services to be provided; and the conditions under which the services are to be performed.

2.14 BIDS TO REMAIN FIRM

All bids shall remain firm for ninety (90) Days after the day of the Bid opening, but City may, in its sole discretion, release any Bid and return the Bid Security prior to that date.

2.15 COST OF SUBMITTAL

The Bidder understands that any and all costs related to the submittal of a proposal is considered an operational cost of the Bidder and shall not be passed on to or be borne by the City. By submission of a bid, the Bidder agrees that any and all costs associated with the preparation of the bid will be the sole responsibility of the Bidder. The Bidder also agrees that the City shall bear no responsibility for any costs associated with the preparation of the bid including but not limited to any administrative or judicial proceedings resulting from the solicitation process.

2.16 IMPROPER IDENTIFICATION AND TIMELINESS

The City is not responsible for the failure of a Bidder or the Bidder's agent to submit responses in a timely manner or for a bid submittal that is not properly addressed or identified. Bid submittals by email, telephone or fax shall be rejected as non-responsive regardless of where it is received.

2.17 CORPORATE STANDING AND AUTHORIZED SIGNATORY

The Proposer must demonstrate that the company is in good standing and that the person signing this proposal is an authorized signatory on behalf of the Proposer to negotiate and/or sign contracts, agreements, amendments and related documents to which the Proposer will be duly bound. Examples of satisfactory demonstration documents include:

A. A copy of your Articles of Incorporation listing the approved signatories of the corporation.
B. A copy of a resolution listing the members of staff that are authorized signatories for the company.
C. A letter from a corporate officer listing the members of staff that are authorized signatories for the company.

Failure to sign and witness the Proposer's signature form may result in disqualification of the bid. Please be sure the bid is signed, properly witnessed, and sealed.

2.18 PROPRIETARY INFORMATION

A. In accordance with Chapter 119 of the Florida Statutes (Public Records Law); and except as it may be provided by other applicable State and Federal Law, all Bidders should be aware the Invitation to Bid, and the responses thereto are in the public domain. Bidders are requested to identify specifically any information contained in their bid submittals which they consider confidential and/or proprietary and which they believe to be exempt from disclosure, citing specifically the applicable exempting law.

B. A generic notation that information is "confidential" is not sufficient. Failure to provide the Purchasing & Contracts Division with a detailed explanation and justification including statutory cites and specific reference to your bid submittal detailing what provisions, if any, you believe are exempt from disclosure, may result in your entire bid submittal being subject to disclosure in accordance with Chapter 119 of the Florida Statutes.

2.19 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

By submission of a response, the Bidder certifies that in connection with this bid submittal:

A. The pricing and/or fees associated with this bid submittal have been arrived at independently, without consultation, collusion, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor.

B. Unless otherwise required by law, the prices which have been quoted on this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly to any other Bidder or to any competitor.

C. No attempt has been made or shall be made by the Bidder to induce any other person or Bidder to submit or not submit a bid for the purpose of restricting competition.

2.20 FAILURE TO COMPLY WITH BID INSTRUCTIONS

Failure to comply with any of the foregoing instructions, provide a bid submittal in the manner prescribed herein or any other essential element of this Invitation to Bid may be grounds for disqualification of your bid submittal.

2.21 AMERICANS WITH DISABILITIES ACT

Persons with disabilities needing a special accommodation to participate in this proceeding should contact the Purchasing & Contracts Division, City of Cocoa, 65 Stone Street, Cocoa, Florida 32922, telephone (321) 433-8833, not later than seven (7) days prior to the date on which the accommodation is requested.

2.22 OFFICE OF RECORD

The City of Cocoa Purchasing & Contracts Division shall be the official "office of record" for all information transactions and data disbursements associated with this solicitation. The Purchasing & Contracts Division may be reached Monday through Friday between 8:00 A.M. to 5:00 P.M., Local Time via phone at (321) 433-8833.

2.23 MODIFICATION OR WITHDRAWAL OF BIDS

Bid modifications will be accepted from a bidder only if received in writing, properly signed by an officer of the bidder, and received prior to the opening of bids. Bid modifications must be identified as such and will be opened with the bidder's bid form.

Bids may be withdrawn by request of the bidder prior to the time fixed for opening. Error or negligence on the part of the bidder in preparing the bid confers no right for the withdrawal of the bid after the public opening date.

2.24 CONFLICTS WITHIN SOLICITATION

Where there appears to be a conflict between the General Terms and Conditions, Special Conditions, the Technical Specifications, the Bid Form, or any addendum issued, the order of precedence shall be: the last addendum issued, the Bid Form, the Technical Specifications, the Special Conditions, and then the General Terms and Conditions. It is incumbent upon the vendor to identify such conflicts to the designated procurement representative prior to the bid or proposal response date.

2.25 JOINT VENTURES

All Bidders intending to submit a bid response as a Joint Venture are required to have filed proper documents with the Florida Department of State, the Division of Professions, Construction Licensing Board and/or any other state or local licensing Agency prior to submitting a bid response. Please refer to Section 489.119 Florida Statutes.

Joint Venture Firms must provide an affidavit attesting to the formulation of a joint venture and provide either proof of incorporation as a joint venture or a copy of the formal Joint Venture Agreement between all joint venture parties, indicating their respective roles, responsibilities and levels of participation for the project.

SECTION 3 SPECIAL CONDITIONS

3.01 ~~BID SECURITY BOND~~ - N/A

~~The Bid response shall be accompanied by a Bid Security Bond equaling five percent (5%) of the total Bid price. Failure of the Bidder to supply same, in the amount and type required, shall automatically render the Bidder as non-responsive resulting in the disqualification from further consideration of their Bid response. Please complete and submit~~ ~~**Bid Security Bond form, attached herein.**~~

A. ~~The Bid Security Bond shall be submitted in the form of a Bid Bond in the amount of five percent (5%) of the total Bid price, made payable to the City of Cocoa, issued by a surety firm and through a reputable and responsible surety bond agency licensed to do business in the State of Florida.~~

1. ~~The surety must be rated as "A"® or better as to strength by Best's Insurance Guide, published by A. M. Best Company, Inc., located at 1 Ambest Road, Oldwick, New Jersey 08858. For the latest ratings and Insurance Guide, access www.ambest.com.~~
2. ~~In lieu of a Bid Bond, the Bidder may submit cash (U.S. currency only), money order, certified or cashier's check drawn from a national or state bank whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC), in the amount of five percent (5%) of the total Bid price. Money orders and checks must be made payable to the City of Cocoa and shall accompany your bid submittal.~~
3. ~~The terms of the ITB Security Bond shall be:~~
   a. ~~The Bidder shall enter into an Agreement if awarded to the Bidder;~~
   b. ~~The surety (or alternate form of security forfeit) shall be responsible for the costs resulting from the failure of the Bidder to enter into an Agreement if awarded to the Bidder; including the increased costs associated with awarding to the next most responsive, responsible Bidder and costs associated with conducting the Bid process and letting the Agreement;~~
   c. ~~To promptly enter into an Agreement to perform the work and furnish the required Performance and Payment Bond, if applicable; and~~
   d. ~~Any interest earned as a result of the City depositing the accepted money order, certified or cashier's check, or cash received as Bid Security Bond into an interest bearing account, shall be retained by the City.~~

B. ~~Return of Bid Security Bond: As soon as the bid responses have been evaluated, the City may, at its sole discretion, return or release the Bid Security Bonds accompanying such bid responses, which in its sole judgment, would not likely be considered for award. All other Bid Security Bonds will be held until award of this project and the agreement has been executed by the successful Bidder; after which any remaining Bid Security Bonds will be returned to the respective Bidders. It shall be the sole responsibility of the Bidder to request in writing from the City the return of the Bid Security Bond or alternative form of security used. Bid Security Bond or alternative form of security used shall not be returned unless requested by the Bidder in writing.~~

3.02 ~~PERFORMANCE AND PAYMENT BONDS –~~ N/A

~~Upon award of this project, the successful Bidder shall furnish Performance and Payment Bonds, or alternative form of performance and payment security such as; a money order, certified or cashier's check, cash (U.S. currency only), letter of credit; equaling one hundred percent (100%) of the total contract amount awarded under this solicitation. Receipt of said Performance and Payment Bonds shall occur no later than fifteen (15) calendar days after receipt of notification of Award. No commencement of work shall be authorized by the City without receipt of the Performance and Payment Bond or alternative security.~~

~~A. The Performance and Payment Bond shall be made payable to the City of Cocoa, issued by a reputable Surety firm licensed to do business in the State of Florida (F.S. 255.05). On approval of any Contract change increasing the Contract price, Contractor shall ensure that the performance bond and the payment bond is increased so that each reflects the total Contract price as increased.~~

~~1. The Surety must be rated as "A"® or better as to strength by Best's Insurance Guide, published by A. M. Best Company, Inc., located at 1 Ambest Road, Oldwick, New Jersey 08858. For the latest ratings and Insurance Guide, access www.ambest.com~~
~~2. The terms of the Payment and Performance Bond shall guarantee that:~~

~~a. The successful Bidder shall assure faithful performance of this project;~~
~~b. The successful Bidder shall assure timely payments to all persons providing labor, materials and/or supplies used in the performance of the work associated with this project;~~
~~c. Nothing in this section shall be construed to limit the authority of the City Council, the City Manager, or the Procurement Administrator to require other security in addition to, or in lieu of, those bonds or in circumstances other than those specified herein, when in the best interest of the City.~~

~~B. If the bond is based on an annual coverage basis, renewal for each succeeding year shall be submitted to the City thirty (30) days prior to the termination date of the existing Performance Bond. The Performance Bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida and having a resident agent.~~

~~C. Return of Payment and Performance Bond. It shall be the sole responsibility of the successful Bidder to request in writing from the CITY the return of the Payment and Performance Bond. The request shall be considered no earlier than thirty (30) calendar days upon completion and final acceptance of the City, or expiration in a satisfactory manner of the awarded Agreement associated with this project. Payment and Performance Bonds shall not be returned unless requested by the successful Bidder in writing.~~

3.03 TIME FOR COMPLETION AND LIQUIDATED DAMAGES

It is understood and agreed that time is the essence of the Contract, and that failure on the part of the Contractor to complete the Contract Work within the time stated in the Agreement will result in certain loss and damage to the CITY.

It is therefore covenanted and agreed that, if the Contractor shall fail or neglect to complete his Work on or before the date fixed for completion by these Documents, then said Contractor agrees to pay to the CITY, as Liquidated Damages, the amounts specified herein are consistent with the current Florida Department of Transportation Standard Specifications for Road and Bridge Construction, (FDOT Specifications), Section 8-10, as amended that the City shall act as the Department.

Upon failure of Contractor to obtain Substantial Completion within the deadline as established in the contract, plus approved time extensions, Contractor shall pay to City the sum of One Hundred ($100.00) for each calendar day after the deadline for Substantial Completion, plus any approved time extensions, until Substantial Completion is obtained. After Substantial Completion, should Contractor fail to complete the remaining Work within the deadline as established in the contract, plus approved time extensions thereof, Contractor shall pay to City the sum equal to fifty percent (50%) of applicable amount for each calendar day after the deadline for Final Completion, plus any approved extensions, until Final Completion is obtained. These amounts are not penalties but are liquidated damages to City for its inability to obtain full beneficial use/occupancy of the Project. Liquidated damages are hereby fixed and agreed upon between the Parties; recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by City as a consequence of such delay; And both Parties desiring to obviate any question of dispute concerning the amount of said damages and the cost and effect of the failure of Contractor to complete this Contract on time. The above-stated liquidated damages shall apply separately to each portion of the Project for which a deadline for completion is given.

The full amount of such damages shall be deducted from payments due the Contractor or obtained by other legitimate means of recovery if earned payments withheld are inadequate to cover such damages.

Applicable liquidated damages are the amounts established in the following schedule:

Original Contract Amount Daily Charge Per Calendar Day
$50,000 and under $956
Over $50,000 but less than $250,000.....$964
$250,000 but less than $500,000.....$1,241
$500,000 but less than $2,500,000.....$1,665
$2,500,000 but less than $5,000,000.....$2,712
$5,000,000 but less than $10,000,000.....$3,447
$10,000,000 but less than $15,000,000.....$4,866
$15,000,000 but less than $20,000,000.....$5,818

The City has the right to apply, as payment on such liquidated damages, any money the City owes the Contractor. The City does not waive its right to liquidated damages due under the Contract by allowing the

Contractor to continue and finish the work, or any part of it, after the expiration of the Contract Time including granted time extensions.

In the case of default of the Contract and the completion of the work by the City, the Contractor and his surety are liable for the liquidated damages under the Contract, but the City will not charge liquidated damages for any delay in the final completion of the City's performance of the work due to any unreasonable action or delay on the part of the City.

The City considers the Contract complete when the Contractor has completed all work and the City has accepted the work. The City will then release the Contractor from further obligation except as set forth in his bond.

SECTION 4 GENERAL TERMS AND CONDITIONS

4.01 AWARD OF CONTRACT

Award will be made to the lowest, most responsive and responsible Bidder whose bid submittal meets the specifications.

1.01 The City shall review the fees and rates of compensation for reasonableness prior to execution of contract or submittal of a recommendation of contract or agreement to the City Council. The City Attorney may review all contract documents. Other experts may be consulted to assist in this process.

1. The successful Bidder shall execute and return the agreement to the City, within ten (10) days after receipt along with any and all additional contractual documents, performance and payment bonds, insurance certificates/verifications and any other documents required as outlined in this solicitation document.

2. In no event shall an agreement be considered binding upon the City until it has been properly executed by all parties.

3. In conjunction with the agreement, a purchase order or other form of payment will be established by the City prior to the start of any project, service, or work by the Bidder.

2.01 Failure to Execute the Agreement(s).

Failure on the part of the successful Bidder to execute the Agreement(s) as required will be just cause for the rescindment of the award. In the event that the City fails to contract with the lowest most responsive and responsible bidder, the Bidder shall forfeit his bid guarantee to the City in the manner previously described herein. The award may then be made to the next lowest most responsive and responsible bidder, or the City may opt to re-advertise the work if found to be in its overall best interest.

4.02 DAMAGES

Areas adjacent to the construction site, which are damaged, shall be repaired at the Contractor's expense. Restoration of adjoining areas shall be equal to or better than original condition and to the satisfaction of the City. Protection of personal property, utilities, structures, access drives, conduits, pavement, curbs, sidewalks, trees, and shrubs shall be the responsibility of the Contractor, who shall provide adequate protection to maintain proper service.

4.03 NOTICE TO PROCEED

The Work shall commence upon the issuance of Notice To Proceed (NTP) and shall remain in effect until such time as the Work acquired in conjunction with this solicitation, have been completed and accepted by the City's authorized representative and upon completion of the expressed and/or implied warranty periods.

4.04 SUPERVISION

The City shall not exercise any supervision or control over the Bidder's employees performing services under an agreement. Said employees shall be accountable not to the City, but solely to the Bidder, who, in turn, is responsible to the City.

4.05 FAILURE OF PERFORMANCE AND/OR DELIVERY

In cases where materials, goods or services are not properly delivered, performed and/or installed, the successful Bidder will either remedy the defect to the satisfaction of the City or be responsible for reimbursement of the difference to the City for the subsequent contractor selected to remedy the defect. Acceptance of materials, goods or services shall remain in the City's sole discretion.

Unsatisfactory work shall be corrected by the Bidder within twenty-four (24) hours of notification by the City. If the successful Bidder fails to perform as required per these specifications, or fails to deliver the item(s) or perform the work specified in these specifications, it shall compensate the City for any damages caused by the Bidder's failure to perform as stated herein.

4.06 PERFORMANCE EVALUATION

At the end of the Contract, the receiving department may evaluate the successful bidder's performance. This evaluation will become public record.

4.07 PROTECTION OF PROPERTY

At all times, the successful Bidder shall safe-guard City property from damage or loss and shall replace or repair any loss or damage unless such damage is caused by the City. The City may withhold payment, or make such deductions as it might deem necessary, to insure reimbursement for loss or damage to property through negligence of the successful Bidder or the Bidder's agents.

4.08 SERVICE REQUIREMENTS

The successful Bidder shall provide sufficient staff, resources, and facilities to ensure that the City's business is handled in a timely manner. If the Bidder is unable to perform the work in a timely manner as agreed upon, the City shall have the right to rescind the purchase order and award the project to another Bidder.

4.09 COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH

By submission of a bid in response of this solicitation, the Bidder certifies that all material, equipment, etcetera; contained in the bid submittal meets all OSHA requirements. Bidder further certifies that if they are the successful Bidder, and the material, equipment, etcetera; delivered is subsequently found to be deficient in any OSHA requirements in effect on the date of delivery, all costs necessary to bring the material, equipment, etcetera; into compliance with the aforementioned requirements shall be borne by the successful Bidder.

4.10 WARRANTY

In accordance with Article 15.00 of the Agreement(s) to be executed by the successful Bidder, the Contractor together with his surety unconditionally guarantee all Contractor furnished materials, equipment and workmanship incorporated in the Work for a period of not less than one (1) year after the date of final acceptance of the Work by the City. (This warranty shall be exclusive of all manufacturer's guarantee or warranties exceeding this period). Should any defect in materials or workmanship, except ordinary wear and tear, appear during the above stated warranty period, the successful Bidder shall repair or replace same at no cost to the City, immediately upon written notice from the City's authorized representative.

4.11 INSPECTION/TITLE/ACCEPTANCE OF GOODS/SERVICES

Inspection and acceptance of goods/services will be at the destination, unless otherwise stipulated. Title and risk of loss or damage to all items shall be the responsibility of the successful Bidder until accepted by the requesting Division/Department/Office of the City, unless loss or damage results from negligence by the City or the requesting Division/Department/Office.

Receipt of goods/service shall not constitute acceptance. Final acceptance and authorization of payment shall be given only after a thorough inspection indicates that the performance meets the specifications and/or all conditions. Should the delivered goods/services differ in any respect from the specifications, payment will be withheld pursuant to Section 218.70, Florida Statutes, until such time as the successful Bidder takes necessary corrective action. If the proposed corrective action is not acceptable to the City, the City may refuse final acceptance of the goods/services.

4.12 NON-EXCLUSIVE CONTRACT

Award of this project shall impose no obligation on the City to utilize the successful Bidder for all work of this type, which may develop during the contract period. This is not an exclusive contract. The City specifically reserves the right to concurrently contract with other companies for similar work if it deems such action to be in the City's best interest.

4.13 MATERIAL DEVIATIONS

The City of Cocoa has established certain requirements with respect to proposals to be submitted by prospective Proposers. The use of "shall" (except to indicate simple futurity) in the bid indicates a requirement or condition, which must be met. The City of Cocoa may, at its sole discretion, waive requirements or conditions if the conditions are determined to be non-material. A deviation from a requirement is material when the deficient response is not in substantial accord with the bid requirements, provides an advantage to one bidder, or has a potentially significant effect on the delivery, quantity or quality of items proposed amount paid to the Bidder, or for the cost to City of Cocoa. Material deviations cannot be waived.

4.14 OWNERSHIP OF DOCUMENTS

All documents resulting from this solicitation shall become the sole property of the City. All bid submittals received from Bidders in response to the solicitation will become the property of the City and will not be returned to Bidders. In the event of an award, all documentation produced as part of the Contract will become the exclusive property of the City.

4.15 PUBLIC RECORDS COMPLIANCE

The City is a public agency subject to Chapter 119, Florida Statutes. In addition, all responses to this solicitation shall be considered public record subject to distribution pursuant to the request for records by any interested party.

The successful Bidder/Contractor agrees to comply with Florida's Public Records Law. As such the following language applies effective July 1, 2016 and shall be included in the awarded agreement:

A. The parties specifically acknowledge that this agreement is subject to the laws of the State of Florida, including without limitation Chapter 119, Florida Statutes, which generally make public all records or other writings made or received by the parties. If the Contractor is either a "contractor" as defined in Section 119.0701(1)(a), Florida Statutes, or an "agency" as defined in Section 119.011(2), Florida Statutes, the CONTRACTOR shall:

1. Keep and maintain all public records required by the City to perform the services herein; and
2. Upon request from the City's custodian of public records, provide the City with a copy of the 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, F.S. or as otherwise provided by law; and
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 agreement Term and following completion of the agreement if the Contractor does not transfer the records to the City; and
4. Upon completion of the Agreement, 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 services herein. If the Contractor transfers all public records to the City upon completion of the Agreement, 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 Agreement, 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 compatible with the information technology systems of the City.

B. All requests to inspect or copy public records relating to the agreement shall be made directly to the City. Notwithstanding any other provision of this agreement to the contrary, failure to comply with the requirements of this paragraph shall result in the immediate termination of the agreement, without penalty to the City. A Contractor who fails to provide the public records to the City within a reasonable time may be subject to penalties pursuant to Section 119.10, F.S. Further, the CONTRACTOR shall fully indemnify and hold harmless the City, its officers, agents and employees from any liability and/or damages, including attorney's fees through any appeals, resulting from the Contractor's failure to comply with these requirements.

C. **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 AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS, ATTN: CARIE SHEALY, CMC, CITY CLERK, AT 321-433-8484, cshealy@cocoafl.gov, 65 STONE STREET, COCOA, FLORIDA 32922.**

4.16 FUND AVAILABILITY

Any contract resulting from this solicitation is deemed effective only to the extent that funds are available. The City of Cocoa abides by the provisions set forth in Florida Statutes relative to the appropriation of funds.

A. Multi-Year Contracts and Appropriation of Funds (if applicable), Contracts for Goods, Services, or Construction may be entered into for more than one (1) fiscal year if it is deemed to be in the best interest of the City, if the term of the Contract and conditions of renewal or extension are included in the Solicitation, and funds are available for the first term of the Contract. Obligations for succeeding fiscal years may be subject to the availability and appropriation of funds by the City Council.

B. For Construction Projects, total funding may be identified and appropriated in the fiscal year commencement of the Construction Project takes place, or to the maximum extent as possible and not inconsistent with law. Obligations for succeeding fiscal years shall be rolled over and/or appropriated as applicable.

4.17 PROMPT PAYMENT ACT

Payments will be made pursuant to Section 218.70, Florida Statutes, Florida's Prompt Payment Act.

4.18 PURCHASING CARD PROGRAM

The City of Cocoa offers an e-Payables program to contractors as an optional payment method. This is not a requirement. If the successful Bidder is interested or desires additional information, please indicate in your bid submittal.

4.19 INVOICES/APPLICATION FOR PAYMENT

A. Final approved Applications for Payment shall be delivered to the City of Cocoa, Attention: Accounts Payable, City of Cocoa, 65 Stone Street, Cocoa, Florida, 32922. Applications for Payment should include all Work completed through the end of the month.

B. Dispute Resolution: In the event a dispute occurs between a contractor, vendor or other invoicing party ("invoicing party") and the City concerning payment of an invoice, the City Department, Office or Division which has the dispute along with a representative of the City's Purchasing & Contracts Division and the invoicing party shall meet to consider the disputed issues.

The invoicing party shall provide to the City such material and information as the City may reasonably require. Any such procedure shall be initiated by either party notifying the other in writing of a dispute or stating with specificity its nature. This procedure shall commence not later than forty-five (45) days and be resolved not later than sixty (60) days, after the date on which the proper invoice was received by the City. Any decision by the Procurement Administrator shall constitute the final decision of the City regarding these matters and shall be communicated in writing to the invoicing party within three (3) business days after such decision.

If no decision is rendered within the time period as set out above, then a decision against the invoicing party shall be deemed to have been issued.

4.20 W-9 FORM

All Proposers shall furnish a completed W-9 with their bid or proposal submittal. A tax identification number is required to do business with the City.

4.21 MOST FAVORED CUSTOMER

The City seeks and demands to be the most favored customer of each Bidder who does business with the City. The most favored customer is a customer or category of customers that receives the best discounts from the Bidder's commercial price list when procuring quantities comparable to the City's under similar terms and conditions. The successful Bidder agrees to provide the City discounts from the Bidder's commercial price list that are equal to or greater than the Bidder's most favored customer is receiving.

4.22 PRICE REDUCTION CLAUSE

The City will invoke the price reduction clause if the successful Bidder violates the contractually agreed upon pricing/discount relationship by offering a (better) discount to a most favored customer. The City shall request a price reduction from the date that the violation took place. The successful Bidder will owe the City a discount proportionately equal to that given the most favored customer.

4.23 PURCHASING AGREEMENTS WITH OTHER GOVERNMENTAL AGENCIES

All bidders submitting a response to this solicitation agree that such response also constitutes a bid in accordance with the terms of the solicitation to all political subdivisions of Brevard County and the State of Florida, under the same conditions, for the same prices as this bid, unless otherwise stipulated by the bidder. Each governmental agency shall be responsible for its own purchases and shall be liable for materials and /or services received by it.

4.24 ESTIMATED QUANTITIES

This ITB may contain estimated quantities for purposes of providing unit prices. These numbers, which may be approximate, are subject to variation in the field. The City cannot guarantee that estimated quantities will be the actual amount required and/or purchased. Actual quantities may be more or may be less and the Bidder agrees to do the work at the unit price whether the quantities are increased or decreased.

4.25 FOREIGN CORPORATION

In accordance with Section 607.1501, Florida Statutes, and provided an exemption is not available, a foreign corporation may not transact business in Florida until it obtains a certificate of authority from the Florida Department of State.

Foreign corporations may submit bids or proposals prior to obtaining a certificate of authority from the Florida Department of State. A foreign corporation must be in compliance with F.S. 607.1501, prior to entering into a Contract with the City of Cocoa.

4.26 PUBLIC EMERGENCIES

It is hereby made a part of this proposal that before, during, and after a public emergency, disaster, hurricane, tornado, flood, or other acts of God, the City of Cocoa shall require a "First Priority" for goods and services. It is vital and imperative that the health, safety, and welfare of the citizens of Cocoa are protected from any emergency that threatens public health and safety as determined by the City. The Bidder agrees to rent/sell/lease all goods and services to the City or governmental entities on a "first priority" basis. The City expects to pay contractual prices for all products and/or services under the awarded Agreement in the event of a disaster, emergency, hurricane, tornado, flood, or other acts of God. Should the Bidder provide the City with products and/or services not under the awarded Agreement, the City expects to pay a fair and reasonable price for all products and/or services rendered or contracted in the event of a disaster, emergency, hurricane, tornado, flood, or other acts of God.

4.27 SPECIFICATIONS/DEVIATIONS

Specifications listed herein describe the expected minimum standards. These specifications are intended to be descriptive in nature and are not intended to eliminate any Bidder from submitting a bid response. If

a Bidder considers the specification contained herein to be proprietary or restrictive in nature, thus potentially resulting in reduced competition, they are urged to contact the Purchasing & Contracts Division prior to the bid due date and time.

A. The determination as to whether any alternate good or service is or is not equal shall be made solely by the City and such determination shall be final and binding upon all bidders. The City reserves the right to request and review additional information to make such a determination.

B. The Bidder shall be responsible for carefully reading and understanding the requirements and specifications. Unless the bid is in response to a brand name or equal" requirement, deviations from the specifications will only be considered if requested in writing prior to the date and time specified for receipt of bids. Deviations, if accepted, will be specifically addressed in writing via an issued addendum to this ITB solicitation. Any goods or services that are not in compliance with the specifications will not be accepted.

4.28 PERMITS, LICENSES AND FEES

At its sole expense, any required federal, state, and local permits, licenses, and/or occupational fees required, except for permits provided by the City, shall be the responsibility of the Bidder. The City will not entertain separate payment for these items.

4.29 SUB-CONTRACTORS

Bidders must list any sub-contractors that shall be used to accomplish the scope of services. Please complete and submit **Schedule of Proposed Subcontractor Participation**. If no subcontractors are going to be used, check the box for "No Subcontracting (of any kind) will be utilized on this project" at the top of the form.

4.30 TAXES

The City of Cocoa is a municipality corporation existing under the laws of the State of Florida. As such, the City does not pay State of Florida Sales Tax. The City's State Tax exemption number is 85-80126215485C-8 and the Federal Employee Identification Number is 59-6000292. The City's sales tax exemption does not apply to goods and services purchased separately by the successful Bidder in connection with its fulfillment of its contractual obligations with the City. The successful Bidder shall be responsible for paying any taxes, fees or similar payments which are required to be paid in connection with the awarded Agreement as a result of this solicitation.

4.31 COMPLIANCE WITH ALL LAWS AND VENUE

At its sole expense, any contractual arrangement between the City and the proposer shall comply with all laws, ordinances, judicial decisions, orders, and regulations of federal, state, county, and municipal governments, as well as their respective departments, commissions, boards, and officers, which are in

effect at the time of award and execution of an Agreement or are adopted at any time following the execution of the awarded Agreement. All legal actions hereunder shall be conducted only in the circuit court in Brevard County or federal court in the Middle District of Florida, Orlando Division; except that any final judgment may be enforced in other jurisdictions in any manner provided by law.

4.32 NEW PRODUCT

Any and all products and materials provided under this bid shall be new and unused.

4.33 EQUAL OPPORTUNITY

The City recognizes fair and open competition as a basic tenet of public procurement and encourages participation by minority and women owned business enterprises. All Bidders are asked to make an affirmative statement as to its support of all applicable equal opportunity and affirmative action requirements. A copy of the City's Equal Employment Opportunity policy is available upon request.

4.34 PUBLIC ENTITY CRIMES

As required by Section 287.133, Florida Statutes, the Bidder warrants that it is not on the convicted contractor list for a public entity crime committed within the past thirty-six (36) months. The Bidder further warrants that it will neither utilize the services of, nor contract with, any supplier, sub-contractor, or consultant in connection with this Agreement for a period of thirty-six (36) months from the date of being placed on the convicted contractor list. By way of a submittal response completion and signature on this solicitation, the Bidder certifies that it is qualified to do business with the City of Cocoa in accordance with all Florida Statutes.

4.35 SOVEREIGN IMMUNITY

Notwithstanding any other provision set forth in this solicitation and/or the resulting awarded Agreement, nothing contained in this solicitation and/or the resulting awarded Agreement shall be construed as a waiver of the City's right of sovereign immunity under Section 768.28, F.S., or other limitations imposed on the City's potential liability under state or federal law. The City shall not be liable under this solicitation and/or the resulting awarded Agreement for punitive damages or interest for the period before judgment. Further, the City is not liable for any claim or judgment or portion thereof, to any one person for more than two hundred thousand dollars ($200,000.00), or any claim or judgment, or portion thereof, which, when totaled with all other claims or judgments paid by the City arising out of the same incident or occurrence, exceeds the sum of three hundred thousand dollars ($300,000.00). This paragraph will survive termination of this solicitation and/or the resulting awarded Agreement.

4.36 RIGHT TO CANCEL OR REJECT

A. A solicitation may be canceled, or any or all submittals in response to a solicitation issued by the City may be rejected, by the Procurement Administrator, in whole or in part, without recourse, when

it is in the best interest of the City in accordance with the Section 5.14 of City of Cocoa Purchasing Policy. As the best interests of the City of Cocoa may require, the right is reserved to make award(s) by individual items, group of items, all or none, or a combination thereof, with one or more suppliers. The Bidder agrees that the City has the right to reject, for any reason and without penalty, any and/or all proposal packages or any part of a proposal package, prior to and after the rankings are made by the City, and that the City has the right, for any reason and without penalty, to terminate any contract negotiations commenced with any Bidder. The City also reserves the right to re-advertise and solicit new bids/proposals or to abandon the project in its entirety without reason and without penalty.

B. The City reserves the right to accept or reject any or all bids/proposals, or to waive any formalities, technicalities, irregularities, or immaterial variation.

C. The City also reserves the right to reject the bid submittal from a Bidder who has previously failed to perform properly, or complete on time contracts of a similar nature, or who investigation shows is not able to perform the contract.

4.37 ADDITIONAL INFORMATION

The City reserves the right to request any additional information needed for clarification from any Bidder for evaluation purposes.

4.38 UNIT PRICE ACCURACY

Please check the stated unit prices before submitting the bid as no change in prices shall be allowed after opening. All prices and notations must be in ink or typewritten. In cases of extended price irregularities, unit pricing shall prevail. The Bidder shall specify the price per unit of measure and the extended total, or the lump sum bid price if such is required by the bid documents, for each scheduled item of Work, as well as the total bid amount for the entire Work to be completed under the Agreement. Please note that the City reserves the right to clarify and correct extended amount errors.

4.39 MATHEMATICAL ERRORS

A. Bid pricing forms without imbedded mathematical formulas: In the event of multiplication or extension error(s), the unit price shall prevail. In the event of addition error(s), the extension totals will prevail.
B. Bid pricing forms with imbedded mathematical formulas: Interactive bid pricing forms that contain mathematical formulas may be provided to automate lengthy and complex bid forms. In the event bid pricing forms with imbedded formulas are used and a multiplication/extension error(s) is discovered in the formula, the unit price entered by the Bidder shall prevail.
C. Bidder shall assume the responsibility and accuracy of the information input in the bid pricing form and therefore shall verify that the calculations are correct before submitting their bid.
D. Regardless of the type of bid pricing form used, all bids shall be reviewed mathematically by the City using these standards.

4.40 UNBALANCED BIDDING PROHIBITED

The City recognizes that large and/or complex projects will often result in a variety of methods, sources, and prices. However, where in the opinion of the City such variation does not appear to be justified given bid requirements and industry and market conditions, the bid will be presumed to be unbalanced. Examples of unbalanced bids include:

A. Bids showing omissions, alterations of form, additions not specified, or required conditional or unauthorized alternate bids.
B. Bids quoting prices that substantially deviate, either higher or lower, from those included in the bids of competitive Bidders for the same line item unit costs.
C. Bids where the unit costs offered are in excess of, or below reasonable cost analysis values.

In the event the City determines that a bid is presumed unbalanced, it will request the opportunity to and reserves the right to, review all source quotes, bids, price lists, letters of intent, and other supporting documentation which the Bidder obtained and upon which the Bidder relied upon to develop its bid. The City reserves the right to deem any presumptive unbalanced bid where the Bidder is unable to demonstrate the validity and/or necessity of the unbalanced unit costs as non-responsive.

4.41 FRONT LOADING OF BID PRICING PROHIBITED

Prices offered for performance and/or acquisition activities, which occur early in the Project Schedule, such as mobilization; clearing and grubbing; or maintenance of traffic; that are substantially higher than pricing of competitive bidders within the same portion of the Project Schedule, will be presumed to be front-loaded. Front loaded bids could reasonably appear to be an attempt to obtain unjustified early payments creating a risk of insufficient incentive for the bidder to complete the Work or otherwise creating an appearance of an undercapitalized bidder.

In the event City determines that a bid is presumed to be front loaded, it will request the opportunity to, and reserves the right to, review all source quotes, bids, price lists, letters of intent, and other documents which the bidder obtained and upon which the bidder relied upon to develop the pricing or acquisition timing for these bid items. The City reserves the right to reject as nonresponsive any presumptive front-loaded bids where the bidder is unable to demonstrate the validity and/or necessity of the front-loaded costs.

4.42 REASONABLE PRICES

A reasonable unit price must be submitted for each work element. In the event any pay item unit price is determined to be unreasonably low or unreasonably high, the bid may be declared non-responsive and may not be considered.

4.43 DELIVERY

Unless otherwise specified, prices shall be firm, net delivered and installed at construction or project site. Delivery may be a factor in the award. Failure to perform within the delivery deadline(s) set forth in the specifications, or any other contract document, shall constitute default.

4.44 SPLIT AWARD

The City reserves the right to make an award to one Bidder, to split the award between two or more Bidders, or to withhold award of individual items, as may be in the best interest of the City. The City may accept any item or group of items on any bid unless the Bidder qualifies the bid by specific limitations.

4.45 BID PRICE SCHEDULE

Each Bidder shall furnish the information required on **the Bid Price Schedule** and each accompanying sheet thereof on which the Bidder makes an entry. Offers submitted on any other format may be disqualified.

4.46 BID TABULATION

The bid tabulation will be posted on the City of Cocoa website via VendorLink, LLC at: http://www.myvendorlink.com. Proposers may email the Purchasing & Contracts Division, purchasing@cocoafl.gov for results.

4.47 BIDDER'S SPECIFICATIONS AND NOT BIDDING

A. Each Bidder shall make accurate and clear statements in their bid response.
B. Where more than one (1) item is listed, any items not bid upon shall be indicated as "NO BID".

4.48 PRE-AWARD INSPECTION

Prior to the award, the City reserves the right to make a pre-award inspection of the Bidder's facilities to determine the capabilities of the Bidder to service the City.

4.49 EXISTING PERMITS AND IDENTIFICATION NUMBERS

Any and all permits, state licenses, including, but not limited to, Department of Environmental Protection (EPA), and/or Environmental Protection Agency (EPA) identification numbers, registrations or permits are to be available for review by the City upon request.

4.50 DRUG-FREE WORKPLACE PREFERENCE

Certification of an implemented drug-free workplace program must be included with the ITB response when submitted. If your firm has implemented a drug-free workplace program, please complete **Attachment Drug-Free Workplace Certification** and include with your ITB response.

4.51 CONFLICT OF INTEREST

All Bidders must disclose, with their bid submittal, the name of any officer, director, or agent who is also an officer or employee of the City of Cocoa. Furthermore, all Bidders must disclose the name of any City of Cocoa officer or employee who owns, directly or indirectly, an interest of ten percent (10%) or more of the Bidder's firm or any of its branches, subsidiaries, or partnerships. Failure to disclose in this manner will result in the disqualification of the Bidder or the cancellation of work. It is the sole responsibility of the Bidder to ensure compliance with the Section 2.1, Conflict of Interest of as per the City of Cocoa Purchasing Policy. Complete and submit, the **Conflict-of-Interest Statement** and non-collusion statement with your bid response. The City may seek damages for the recoupment of losses in having to re-solicit or re-assign this project.

4.52 NON-COLLUSION/LOBBYING CERTIFICATION

All Bidders submitting a Bid, certify that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the bid submittal. In addition, no City appropriated funds have been paid or will be paid to any person for influencing or attempting to influence a member of the City Council, City Manager or any City employee in connection with the awarded agreement as a result of this solicitation process.

4.53 CONSTRICTING CONDITIONS

No additional terms and conditions included within the bid submittal shall be evaluated or considered, and any and all such additional terms and conditions shall have no force and effect and are inapplicable to this solicitation. If submitted either purposely, through intent or design, or inadvertently, appearing separately in transmitting letters, specifications, literature, price lists, or warranties, it is understood and agreed the

general and special conditions in this solicitation are the only conditions applicable to this bid submittal and the Bidder's authorized signature affixed to the bid submittal signature section attests to this. When completing your bid submittal, do not attach any forms which may contain terms and conditions that conflict with those listed in the City's solicitation document. Inclusion of additional terms and conditions such as those which may be on your company's standard forms shall result in your bid being declared non-responsive as these changes will be considered a counteroffer to the City's solicitation.

4.54 DEBARRED BIDDERS

The City reserves the right to suspend award, withhold award, rescind award, or forego award to any Bidder or contractor who is found to have been debarred from doing business with the State of Florida or any other public entity. It shall be at the City's sole determination, as to the desirability of contracting with a Bidder or contractor who has been debarred from doing business with any public entity.

4.55 NOTICES OF INTENT

The Purchasing & Contracts Division shall publicly post a Notice of Intent to Award for a minimum period of three (3) business days on the City of Cocoa's website via VendorLink, LLC at: http://www.myvendorlink.com.

4.56 PROTESTS AND APPEALS

A. Any prospective Bidder or Respondent may file a Notice of Solicitation Protest concerning a Solicitation in writing to the Procurement Administrator. The protest must be received in the Purchasing & Contracts Division Office no later than three (3) business days after the due date for the Solicitation in accordance with Section VIII of the City of Cocoa Purchasing Policy.

B. Any Bidder or Respondent, who is not the intended awardee and who claims to be the rightful awardee, may file a Notice of Award Protest, in writing, with the Purchasing & Contracts Division Office, by 5:00 pm on the third (3rd) business day after the Notice of Intent to Award is posted. An Award Protest is not valid if filed by a Bidder who cannot show they would be awarded the Contract if their protest is upheld in accordance with Section VIII of the Cocoa Purchasing Policy. The decision of the City Council shall be final and conclusive.

4.57 SCRUTINIZED COMPANIES

Pursuant to Section 287.135, Florida Statutes (2017), a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with the City for goods or services of one million dollars or more if at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract, the company is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes (2017); or is engaged in business operations in Syria. Pursuant to Section 215.4725, Florida Statutes, if the company is on the Scrutinized Companies that Boycott Israel List or is

engaged in a boycott of Israel the company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with the City for any amount of goods or services. Subject to limited exceptions provided in state law, the City will not contract for the provision of goods or services with any scrutinized company referred to above. The Contractor must submit the required certification form attesting that it is not a scrutinized company and is not engaging in prohibited business operations. Submitting a false certification shall be deemed a material breach of contract and shall terminate the contract. The City shall provide notice, in writing, to the Contractor of the City's determination concerning the false certification. The Contractor shall have five (5) days from receipt of notice to refute the false certification allegation. If such false certification is discovered during the active contract term, the Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the City's determination of false certification was made in error then the City shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes.

4.58 FORCE MAJEURE

Neither party to this agreement shall be liable to the other for any cost or damages if the failure to perform the agreement arises out of causes beyond the control and without the fault or negligence of the parties. Such causes may include, but are not limited to, the following: acts of God, fires, quarantine restriction, strikes, and freight embargoes. In all cases, the failure to perform must be totally beyond the control and without any fault or negligence of the parties.

4.59 INSURANCE REQUIREMENT

A. Include a copy of your current liability insurance, workman's compensation insurance certificate, and a copy of your firm's Local Business Tax Receipt with your bid submittal.
B. The successful Bidder shall provide original Certificates of Insurance, evidencing coverage as required, in **the Insurance Requirements attached herein** to the Purchasing & Contracts Division within five (5) regular business days of the notification of the intent to award the Agreement. Certificates of Insurance shall provide a minimum of a thirty (30) day notice of cancellation to the City and shall name the City of Cocoa as a Certificate Holder/Additional Insured.
C. All insurance certificates shall remain valid and in full force for the term of the Agreement. Failure to maintain binding insurance policies for awarded services will be grounds for termination of awarded Agreement.

4.60 EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY)

In accordance with State of Florida, Office of the Governor, Executive Order 11-116, in the event performance of this Agreement is or will be funded using state or federal funds, the Bidder must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the Bidder must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include these requirements in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: http://www.dhs.gov/E-Verify.

4.61 AUDITS AND RECORDS

Before or after an agreement is prepared and executed, the successful Bidder may be required to disclose their financial condition in a specified manner. In addition, subsequent to an agreement being executed, the successful Bidder must maintain financial records and reports relating to funds paid by any parties for work on the matters which are the subject of this ITB document and submit reports to the City in the form and frequency requested. The successful Bidder must maintain books, records, documents, and other evidence according to generally accepted accounting principles, procedures, and practices, which sufficiently and properly reflect all costs of any nature expended in the performance of the resulting contract and retain said copies for a period of no less than five (5) years after termination of the project. The aforesaid records, books, documents, and other evidence shall be always subject to inspection, review, or audit by the City or its designee. The successful Bidder shall include these audit and record keeping requirements in contracts and subcontracts thereto entered into by the successful Bidder with any party for work required in the performance of this project.

4.62 INDEPENDENT CONTRACTOR AND LIABILITY

The successful Bidder and each sub-consultant are, and while performing the Services will continue to be, independent contractors. The successful Bidder shall not be an agent of the City, except as may be otherwise expressly provided herein and/or the awarded Agreement, and only to the extent so provided. The successful Bidder's employees and sub-consultant employees are not, and while performing any of the Services, shall not be deemed to be, employees of the City.

Bidders are advised that the City will not accept limitations on liability. The successful Bidder will be fully liable for all damages and events caused by the successful Bidder without any limitations as to dollar amount. The City will pursue liable Bidders to the extent allowed by law. Any bid received that limits liability to the amount of the bid will be considered non-responsive and the Bidder non-responsible, and, as such, the bid will not be accepted by the City.

4.63 INDEMNIFICATION

A. Indemnity: The successful Bidder shall defend, indemnify and hold harmless the City and all of the City's officers, agents, and employees from and against all claims, liability, loss and expense, including reasonable costs, collection expenses, attorneys' fees where recoverable by law, and court costs which may arise because of the negligence (whether active or passive), misconduct, or other fault, in whole or in part (whether joint, concurrent, or contributing), of the successful Bidder, its officers, agents or employees or subcontractors in performance or non-performance of its obligations under the awarded Agreement. The successful Bidder recognizes the broad nature of this indemnification and hold harmless clause, and voluntarily makes this covenant and expressly acknowledges the receipt of such good and valuable consideration provided by the City in support of these indemnification and hold harmless contractual obligations in accordance with the laws of the State of Florida. This clause shall survive the termination of the awarded Agreement. Compliance with any insurance requirements required elsewhere within the awarded Agreement shall not relieve the successful Bidder of its liability and obligation to defend, hold harmless and indemnify the City as set forth in this article of the awarded Agreement. The successful Bidder shall require each of its agents/subcontractors to agree in writing to the provisions of this paragraph.

B. Copyright Infringement: The successful Bidder shall guarantee that all services performed under the awarded Agreement will be free from claims of patent, copyright or trademark infringement. The successful Bidder shall defend, indemnify and hold the City and its successors and assigns harmless from and against all third-party claims, suits, and proceedings and any and all damages, liabilities, costs and expenses (including reasonable attorneys' fees and court costs) incurred as a result of (i) infringement by the successful Bidder of any third-party patent, copyright or trademark or (ii) misappropriation by the successful Bidder of any third-party trade secret in connection with any of the foregoing.

4.64 CHANGES, MODIFICATIONS AND WAIVER

A. Changes: The City reserves the right to order, in writing, changes in the work within the scope of services of a contractual agreement, such as a change in quantity or delivery schedule.

B. Modifications: In additions to modifications made under the changes clause, any agreement resulting from this solicitation may be modified (1) within the scope of services of the agreement upon the written and mutual consent of both parties, and (2) with approval by the appropriate legal body in the City.

C. Waiver: Failure of the parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions contained in a contractual agreement, or to exercise any right or option therein, shall not be construed as a waiver of a relinquishment for the future of such covenant, term, provision, condition, or right of election, but same shall remain in full force and effect.

4.65 ASSIGNMENT

The successful Bidder will not be permitted to assign its contract with the City, or to sub-contract any of the work requirements to be performed, without prior written approval from the City.

4.66 TERMINATION

A. Termination for Convenience: The City may at any time give ten (10) days written notice to the successful Bidder of the termination of the agreement, in whole or in part, for the City's convenience and without cause.

B. Default by the successful Bidder and the City's Remedies: In the event of a default by the successful Bidder, the City shall have the right to exercise any remedy the City may have by operation of law, without limitation, and without any further demand or notice.

C. Bankruptcy or Insolvency: If the successful Bidder files a Petition in Bankruptcy, or if the same is adjudged bankrupt or insolvent by any Court, or if a receiver of the property of the successful Bidder is appointed in any proceeding brought by or against the successful Bidder, or if the successful Bidder makes an assignment for the benefit of creditors, or proceedings are commenced on or against the successful Bidder's operations, the City reserves the right to terminate this Agreement immediately.

D. Payment when Agreement is Terminated:

1. In the event of termination by the City for convenience, the City shall compensate the successful Bidder for all goods furnished prior to the effective date of termination.

2. In the event of termination due to the fault of the successful Bidder or at the written request of the successful Bidder, the City shall compensate the successful Bidder for all goods furnished, prior to the effective date of termination, which have resulted in a usable product, or otherwise tangible benefit to the City. All such payments shall be subject to an off set for any damages incurred by the City resulting from any delay occasioned by early termination. This provision shall in no way be construed as the sole remedy available to the City in the event of breach by the successful Bidder.

4.67 ATTACHMENTS AND EXHIBITS

All attachments and exhibits hereto are made a binding part of this solicitation by this reference.

4.68 OWNERSHIP AND RIGHTS IN DATA

Any work, product or deliverable report provided to the City as a result of work performed while under contract shall be considered the property of the City and may be used in any fashion the City deems

appropriate. The City shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials, and documents discovered or produced by the successful Bidder pursuant to the terms of the awarded contract, including but not limited to reports, memoranda or letters concerning the research and reporting tasks of the awarded contract.

4.69 ADMINISTRATIVE PROVISIONS

In the event the City issues a purchase order, memorandum, letter, or any other instrument addressing the services, work, and materials to be provided and performed pursuant to a contractual agreement, it is specifically agreed and understood that any such purchase order, memorandum, letter or any other instrument is for the City's internal purposes only, and any and all terms, provisions, and conditions contained therein, whether printed or written, shall in no way modify the covenants, terms, and provisions of the contractual agreement and shall have no force or effect thereon. This statement is not applicable to duly authorized and agreed upon amendments to the agreement and/or duly authorized and agreed upon change orders if applicable.

4.70 TIE BIDS

When all considerations of a bid or proposal are equal and the City must break the tie, the Procurement official may consider any or a combination of the following factors in order to break the tie:

1. Priority will be given to the respondent certifying that their firm has a *Drug-Free Workplace Program* published at the time of the issuance of the solicitation. Respondents will be required to provide a copy of their Drug-Free Workplace Program published at the time of the issuance of the submittal;
2. If still tied, consideration shall be given to the Respondent with lowest price submittal amongst the tied proposals;
3. Best and Final Offer - Within 24 hours of a request by the City, tie bidders shall submit a *Best and Final offer*;

If the above options are not practical or do not result in breaking the tie, the Procurement official may utilize a flip of the coin to resolve the tie. If time permits, the bidders involved shall be given an opportunity to attend the coin flip. At least one (1) person shall witness the coin flip, and the contract file shall contain the name(s) and address(es) of the witness(es) and the person supervising the coin flip.

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	**Solicitation Number: ITB B-23-15-COC**
	INVITATION TO BID (ITB)	**Due Date: 02/17/2023**
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

RESPONSE COVER PAGE

COMPANY NAME	
ADDRESS	
PRIMARY CONTACT	
TELEPHONE #	
EMAIL ADDRESS	

SUBMITTAL CHECKLIST

[X]	SUBMITTAL REQUIREMENT / DOCUMENT
	Original Submittal Package bound with binder clip
	Attended Pre-Bid Meeting (if Mandatory)
	Cover Letter (not required)
	Attachment "A" Submittal Acknowledgment
	Attachment "B" Addendum Acknowledgement
	Attachment "C" Insurance Requirements
	Attachment "D" Bid Security Bond (if required)
	Attachment "E" Bid Price Schedule
	Attachment "F" Trench Safety (if required)
	Attachment "G" Certificate of Non-Segregated Facilities
	Attachment "H" Drug-Free Workplace
	Attachment "I" Conflict of Interest and Non-Collusion
	Attachment "J" Organizational Info
	Attachment "K" Subcontractor Participation
	Attachment "L" References
	Attachment "M" Truth-in-Negotiations
	Attachment "N" Solicitation Label affixed to envelope
	Attachment "O" Scrutinized Companies
	Attachment "P" E-Verify Affidavit (including screenshot from website showing active account)
	Attachment "Q" Federally Required Contract Clauses
	Proof of Florida Registration (if required)
	Professional License(s) (if required)
	W9
	Proof of Insurance
	USB drive with electronic copy of submittal

Attachment "A"
Submittal Acknowledgement

By executing below, the undersigned individual hereby represents and warrants that they have the full authority on behalf of respondent to submit a response to the City of Cocoa and bind the Respondent to the terms and conditions of this solicitation. The Respondent represents and warrants to the City of Cocoa that they have read, understand, and agree to abide by all the terms and conditions set forth in the solicitation and all subsequently issued addendums.

Respondent certifies, represents, and warrants that all information contained in Respondent's submittal is accurate and truthful and that the City of Cocoa will rely on said information during its review of the submittal. Respondent understands and agrees that misleading, fraudulent, untruthful, and deceitful information, whether presented to the City in writing or verbally, shall be grounds for immediate disqualification.

THE UNDERSIGNED RESPONDENT HEREBY AGREES TO THE TERMS AND CONDITIONS SET FORTH ABOVE AND CONTAINED ELSEWHERE IN THIS SOLICITATION.

_____ _____
Signature Date

Name: _____

Title: _____

Company Name: _____

STATE OF FLORIDA
COUNTY OF _____
The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ (date) by _____ (name of officer or agent, title of officer or agent) of _____ (name of corporation acknowledging) , a _____ (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ (type of identification) as identification.

_____
[Notary Seal] Notary Public

_____
Name typed, printed, or stamped
My Commission Expires: _____

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	**Solicitation Number: ITB B-23-15-COC**
	INVITATION TO BID (ITB)	**Due Date: 02/17/2023**
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "B"
Addendum Receipt Acknowledgement Certification

The undersigned acknowledges receipt of the following addenda to the solicitation document(s) (Give number and date of each):

Addendum No. _____ Dated: _____

Addendum No. _____ Dated:_____

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided in herein, is truthful and correct at the time of submission.

Bidder/Contractor Name:

_____

Mailing Address:

_____

Telephone Number: _____ Fax Number: _____ E-mail Address: _____

_____ _____ FEIN: _____
Authorized Signatory Printed Name

_____ _____
Title Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

Attachment "C"
Insurance Requirements

A. Insurance. The successful Bidder/Contractor shall not commence any work in connection with an agreement until it has obtained all of the required types of insurance and has provided proof of same to the City, in the form of a certificate prior to the start of any work, nor shall the successful Bidder/Contractor allow any subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been so obtained and approved. All insurance policies shall be with insurers qualified and doing business in Florida.

B. Limits. The successful Bidder/Contractor and/or subcontractor shall maintain the types of insurance, with at a minimum the respective limits as outlined herein:

Automobile combined single limit or	$1,000,000.00
a) Automobile Bodily Injury and	$ 500,000.00
b) Automobile Property Damage	$ 500,000.00
Umbrella / Excess Liability	
a) Liability each occurrence	$1,000,000.00
b) Aggregate combined limit (policy year)	$2,000,000.00
Commercial General Liability	
a) Each Occurrence	$1,000,000.00
b) Medical Expense (Any one Person)	$ 5,000.00
c) Personal & Adv. Injury	$1,000,000.00
d) General Aggregate	$2,000,000.00
e) Products – Comp/OP AGG	$2,000,000.00
Worker's Compensation	$1,000,000.00

Worker's Compensation: Employers' liability insurance, which covers the statutory obligation for all persons, engaged in the performance of the work required hereunder with limits not less than $1,000,000.00 per occurrence. Evidence of qualified self-insurance status will suffice for this subsection. The Bidder understands and acknowledges that it shall be solely responsible for all medical and liability costs associated with an injury to itself and/or to its employees, sub-contractors, volunteers, and the like, including the costs to defend the City in the event of litigation against same.

C. City as Additional Insured. The successful Bidder/Contractor and/or subcontractor shall name the "City of Cocoa" as an Additional Insured, to the extent of the services to be provided hereunder, on all required insurance policies, and provide the City with proof of same.

D. Certificates of Insurance. The successful Bidder/Contractor and/or subcontractor shall provide the City's Purchasing & Contracts Division with a Certificate of Insurance evidencing such coverage for the duration of this Agreement. Said Certificate of Insurance shall be dated and show:

1. The name of the insured Contractor,
2. The specified job by name and job number,
3. The name of the insurer,
4. The number of the policy,
5. The effective date,
6. The termination date,
7. A statement that the insurer will mail notice to the City at least thirty (30) days prior to any material changes in the provisions or cancellation of the policy, and;
8. The Certificate Holders Box must read as follows:
   City of Cocoa
   c/o Administrative Services Director
   65 Stone Street
   Cocoa, Florida 32922

Any other wording in the Certificate Holders Box shall not be acceptable. Non-conforming certificates will be returned for correction.

***NOTE – FOR CONTRACTING PURPOSES, THE CERTIFICATE OF INSURANCE MUST BE DELIVERED TO CITY OF COCOA, PURCHASING & CONTRACTS DIVISION, 65 STONE STREET, COCOA, FLORIDA 32922**

E. Waiver. Receipt of certificates or other documentation of insurance or policies or copies of policies by the City, or by any of its representatives, which indicates less coverage than is required, does not constitute a waiver of the successful Bidder's/Contractor's obligation to fulfill the insurance requirements specified herein.

F. Subcontractors. The successful Bidder/Contractor shall ensure that any sub-contractor(s), hired to perform any of the duties contained in the Scope of Services of an Agreement, maintain the same insurance requirements set forth herein. In addition, the successful Bidder/Contractor shall maintain proof of same on file and make readily available upon request by the City.

G. Loss Deductible Clause. The City shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the successful Bidder/Contractor and/or subcontractor providing such insurance.

H. Additional Requirements. All insurance carriers shall have AM Best Rating of at least A, and a size VII or larger. The General Liability and Workers Compensation policies shall have a waiver of subrogation in favor of the City of Cocoa. The liability policies shall be Primary/Non-Contributory.

_____
AFFIANT SIGNATURE

_____
Typed Name of AFFIANT

_____
Title

The foregoing instrument was executed before me this ____ day of _____, 20__, by _____ as_____ of _____, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced _____ as identification.

NOTARY PUBLIC
STATE OF _____
MY COMMISSION EXPIRES: _____

The City reserves the unilateral right to modify the insurance requirements set forth at any time during the process of solicitation or subsequent thereto.

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	**Solicitation Number: ITB B-23-15-COC**
	INVITATION TO BID (ITB)	**Due Date: 02/17/2023**
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "C"
Addendum Receipt Acknowledgement Certification

The undersigned acknowledges receipt of the following addenda to the solicitation document(s) (Give number and date of each):

Addendum No. _____ Dated: _____

Addendum No. _____ Dated:_____

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided in herein, is truthful and correct at the time of submission.

Bidder/Contractor Name:

_____

Mailing Address:

_____

Telephone Number: _____ Fax Number: _____ E-mail Address: _____

_____ _____ FEIN: _____
Authorized Signatory Printed Name

_____ _____
Title Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

Attachment "D"

~~Bid Security Bond~~ - N/A

~~BOND NO:~~ _____

~~(NOT TO BE FILLED OUT IF A CASHIER'S CHECK IS SUBMITTED)~~

~~KNOW ALL MEN BY THESE PRESENTS: That the undersigned~~ _____

_____

~~as Principal, and,~~ _____

~~as **Surety**, are held and firmly bound unto the **City of Cocoa** in the sum of 5% of the bid amount shown on the **Bid Price Schedule and Acceptance of Bid Terms and Conditions** for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.~~

~~THE CONDITION OF THIS OBLIGATION is such that if Principal:~~

1. ~~Does not withdraw the attached Bid Amount shown on the **Bid Price Schedule and Acceptance of Bid Terms and Conditions** for the City of Cocoa _____ titled _____ for a period of (180) calendar days after the date on which the bids are opened; and~~
2. ~~Enters into a written Contract and furnishes the required Insurance, Certificates of Insurance and Payment and Performance Bonds with surety or sureties acceptable to the **City of Cocoa** within seven days after the date of award of the Contract, then this obligation will be void; Otherwise, the same will be in full force and the full amount of this Bid Bond will be paid to the **City of Cocoa** as stipulated herein.~~

~~Signed this _____ day of _____, _____~~

~~THE CONTRACTOR MUST INDICATE WHETHER CORPORATION, PARTNERSHIP, COMPANY, (OR INDIVIDUAL). THE PERSON SIGNING FOR THE CONTRACTOR WILL SIGN HIS/HER OWN NAME AND SIGN CORPORATE TITLE. WHEN THE PERSON SIGNING FOR A CORPORATION IS OTHER THAN THE PRESIDENT OR VICE PRESIDENT, HE/SHE MUST FURNISH A CORPORATE RESOLUTION SHOWING HIS/HER AUTHORITY TO BIND THE CORPORATION.~~

~~Contractor Name: _____ (Affix Contractor's Corporate Seal Above)~~

~~Mailing Address: _____~~

~~Telephone Number: _____ Fax Number: _____ E-mail Address: _____~~

_____ _____ _____ _____

~~Authorized Signatory Printed Name Title Date~~

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

~~STATE OF _____~~

~~COUNTY OF _____~~

~~BEFORE ME, THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED _____ _____, WHO, BEING DULY SWORN, DEPOSES AND SAYS THAT THEY ARE A DULY AUTHORIZED FLORIDA LICENSED INSURANCE AGENT, PROPERLY LICENSED UNDER THE LAWS OF THE STATE OF _____, TO REPRESENT _____ _____ OF _____ _____ _____;~~

~~A COMPANY AUTHORIZED TO MAKE CORPORATE SURETY BONDS UNDER THE LAWS OF THE STATE OF _____ (THE "SURETY").~~

~~SAID _____ FURTHER CERTIFIES THAT AS AGENT FOR THE SAID _____ THEY HAVE SIGNED THE ATTACHED BOND AS A LICENSED AGENT, IN THE SUM OF 5% OF THE BID AMOUNT SHOWN ON ATTACHMENT "F" BID PRICE SCHEDULE, ON BEHALF OF _____, TO THE CITY OF COCOA COVERING _____ titled _____ IN COCOA, FLORIDA.~~

~~NOTARY PUBLIC _____~~

~~STATE OF _____~~

~~MY COMMISSION EXPIRES: _____~~

~~Surety Name: _____ (Affix Surety's Corporate Seal Above)~~

~~Attorney in Fact for Signature~~	~~Printed Name of Attorney in Fact~~	~~Florida Licensed Agent Signature~~	~~Printed Name of Licensed Agent~~	~~License Surety Number~~

~~Surety Mailing Address: _____~~ ~~Agent Mailing Address: _____~~

~~Telephone Number: _____~~ ~~Telephone Number: _____~~

~~Fax Number: _____~~ ~~Fax Number: _____~~

~~PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE~~

~~☞Failure to submit this form may be grounds for disqualification of your submittal☜~~

Attachment "E"
Bid Price Schedule and Acceptance of Terms and Conditions

Each Bidder shall fill out and complete the Bid Schedule form included in this Section and shall submit the appropriate number of copies as part of the Bid. The purpose of the Bid Schedule is to provide a uniform comparison of the bids. This Contract is a **LUMP SUM CONTRACT consisting of two separate project sums. Award of this contract will be based on the Total Lump Sum Price of the Base Bid Items.** The Bidder is to include all costs Bidder may anticipate during the length of this project and the contract. Each Bidder shall include all extras the Bidder may determine necessary to provide the quantity and quality of Work required by the Contract Documents. Fill in the following bid breakdown which will be used to determine bid completeness and understanding, then fill in the Subtotal and Total Lump Sum Bid Prices on the lines provided. The total bid price must be equal to the sum of the values in the bid breakdown. The verified sum of the individual values in the bid breakdown takes precedence over any discrepancy between the Total Lump Sum Bid Price written and the corrected total lump sum bid price.

BASE: GW Filter #3 IMS Cap and Media Replacement

Item	Item Description	Unit	Total Price
1	Retain 2500 Capacity Car/Cab Enclosure – Replace / refurbish wheels and rollers	LS	$
2	New in car/cab operating panel with vandalism resistant fixtures. Update Emergency Lighting.	LS	$
3	New non-proprietary motion control system including logic controller	LS	
4	New travel limit switches	LS	
5	New door and entrance operators.	LS	
6	New Hall Fixtures using one-inch display with vandalism resistant fixture	LS	
7	New hydraulic motor, pump, valves, oil, and muffler	LS	
8	New Fire Alarm / Call Phone / Connection to Silent Knight panel	LS	
9	New related wiring as necessary	LS	
10	Retain existing pit, refurbish as necessary	LS	
11	Provide 2 as-built sets of drawings including wiring schematics	LS	
Project Total			$

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	**Solicitation Number: ITB B-23-15-COC**
	INVITATION TO BID (ITB)	**Due Date: 02/17/2023**
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

ALTERNATE:

Item	Item Description	Unit	Total Price
1	Provide a second set of control boards for future maintenance repair.	LS	$

Bidder/Contractor Name:_____

Mailing Address: _____

Telephone Number: _____ E-mail Address:_____ _____

_____ _____ FEIN: _____
Authorized Signatory Printed Name

_____ _____
Title Date

STATE OF _____COUNTY OF _____

The foregoing instrument was executed before me this ____ day of _____, 20__, by

_____as_____of_____
____, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced _____ as identification.

_____

NOTARY PUBLIC, State of _____

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

Attachment "F"
Trench Safety Certification

Section 553.62, Florida Statutes incorporates the Occupational Safety and Health Administration's (OSHA) safety standards, 29 CFR Section 1926.650 Subpart P, as the State standard. The Department of Labor and Employment Security may adopt updated or revised versions by rule. Other State or political subdivisions may also have standards that are applicable.

If trench excavation is required on the Project more than 5-feet in depth, the Bidder will identify the cost of compliance with the applicable trench safety standards in the table below. If there is no trench excavation on the Project in excess of 5-feet in depth, write "not applicable" below. All costs to comply with trench safety standards will be incidental to the Project or various related Pay Items.

	Trench Safety Measure (Description)	Units of Measure	Quantity	Unit Cost	Extended Cost
1.					
2.					
3.					
4.					
5.					

(Attach Separate Sheet if Necessary)

If applicable, this certifies that all trench excavation performed within the control of the Contractor will be in accordance with all applicable standards and with the Specifications, and with all requirements of Florida Statute, Sections 553.63(1)(a), 553.63(1)(b), and 553.63(1)(c).

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

Bidder/Contractor Name: _____

Mailing Address: _____

Telephone Number: _____ Fax Number: _____ E-mail Address: _____

_____ _____ FEIN: _____

Authorized Signatory Printed Name

_____ _____

Title Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "G"
Certificate of Non-Segregated Facilities

CERTIFICATION TO BE SUBMITTED BY CONSTRUCTION CONTRACTORS OF APPLICANTS AND THEIR SUBCONTRACTORS (APPLICABLE TO CONSTRUCTION CONTRACTS AND RELATED SUBCONTRACTS EXCEEDING TEN THOUSAND DOLLARS (US $10,000.00) WHICH ARE NOT EXEMPT FROM THE EQUAL OPPORTUNITY CLAUSE)

The construction Contractor certifies that it does not maintain or provide, for its employees, any segregated facilities at any of its establishments and that construction Contractor do not permit its employees to perform their services at any location, under construction Contractor's control, where segregated facilities are maintained. The construction Contractor certifies that it will not maintain or provide, for its employees, segregated facilities at any of its establishments and that construction Contractor will not permit its employees to perform their services at any location, under construction Contractor's control, where segregated facilities are maintained. The construction Contractor agrees that a breach of this certification is a violation of the equal opportunity clause in this Contract. As used in this certification, the term "segregated facilities" means any waiting room, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, and transportation and housing facilities provided for employees which are segregated by explicit directives or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason. The construction Contractor agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding ten thousand dollars (US $10,000.00) which are not exempt from the provisions of the equal opportunity clause and that construction Contractor will retain such certifications in its files.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

Bidder/Contractor Name:_____

Mailing Address: _____

Telephone Number: _____ E-mail Address:_____ _____

_____ _____ FEIN: _____
Authorized Signatory Printed Name

_____ _____
Title Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

Attachment "H"
Drug-Free Workplace Certification

When applicable, the drug-free certification form below must be signed and returned with the ITB response.

In order to have a drug-free workplace program, a business shall:

A. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

B. Inform employees about the dangers of drug abuse in the workplace, the business' policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.

C. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in the first paragraph.

D. In the statement specified in the first paragraph, notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893, Florida Statutes, or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.

E. Impose a sanction on, or require the satisfactory participation in, a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.

F. Make a good faith effort to continue to maintain a drug-free workplace through implementation of the foregoing provisions.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

_____
AFFIANT SIGNATURE

_____
Typed Name of AFFIANT

_____
Title

STATE OF _____
COUNTY OF _____

The foregoing instrument was executed before me this ____ day of _____, 20__, by _____as_____of_____ _____, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced _____ as identification.

_____
NOTARY PUBLIC, State of _____

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE – (if applicable)

Attachment "I"
Conflict of Interest and Non-Collusion Statement

A. This sworn statement is submitted by_____ whose business address is [Name of entity submitting sworn statement] and (if applicable) its Federal Employer Identification Number (FEIN) is _____ of the individual signing this sworn statement: _____.

My name is _____ and my relationship to the above entity is_____.

[Please print name of individual signing]

B. **CONFLICT OF INTEREST**

A. The entity hereby submits a proposal/offer to ITB # _____ for _____ Services.

B. The AFFIANT has made diligent inquiry and provided the information in this statement affidavit based upon its full knowledge.

C. The AFFIANT states that only one submittal for this solicitation has been submitted and tendered by the appropriate date and time and that said above stated entity has no financial interest in other entities submitting a proposal for the work contemplated hereby.

D. Neither the AFFIANT nor the above-named entity has directly or indirectly entered into any agreement, participated in any collusion or collusive activity, or otherwise taken any action which in any way restricts or restraints the competitive nature of this solicitation, including but not limited to the prior discussion of terms, conditions, pricing, or other offer parameters required by this solicitation.

E. Neither the entity nor its affiliates, nor anyone associated with them, is presently suspended or otherwise prohibited from participation in this solicitation or any contract to follow thereafter by any government entity.

F. Neither the entity nor its affiliates, nor anyone associated with them, have any potential conflict of interest because and due to any other clients, contracts, or property interests in this solicitation or the resulting project.

G. I hereby also certify that no member of the entity's ownership or management or staff has a vested interest in any City Division/Department/Office.

H. I certify that no member of the entity's ownership or management is presently applying, actively seeking, or has been selected for an elected position within City of Cocoa government.

I. In the event that a conflict of interest is identified in the provision of services, I, the undersigned will immediately notify the City in writing.

C. **NON-COLLUSION PROVISION CERTIFICATION**

The undersigned hereby certifies, to the best of his or her knowledge and belief, that on behalf of the person, firm, association, or corporation submitting the bid certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the submitted bid. Failure to submit the executed statement as part of the bidding documents will make the bid nonresponsive and not eligible for award consideration.

D. **LOBBYING CERTIFICATION**

The undersigned hereby certifies, to the best of his or her knowledge and belief, that:

1. No City appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence either directly or indirectly an officer or employee of the City, City Council Member of Congress in connection with the awarding of any City Contract.
2. If any funds other than City appropriated funds have been paid or will be paid to any person for influencing or attempting to influence a member of City Council or an officer or employee of the City in connection with this contract, the undersigned shall complete and submit Standard Form-L "Disclosure Form to Report Lobbying", in accordance with its instructions.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

_____
AUTHORIZED SIGNATURE

_____
Typed Name of AUTHORIZED SIGNATORY

_____
Title

STATE OF _____
COUNTY OF _____

The foregoing instrument was executed before me this ____ day of _____, 20__, by _____as_____of_____ _____, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced _____ as identification.

_____

NOTARY PUBLIC, State of _____

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☞Failure to submit this form may be grounds for disqualification of your submittal☜

Attachment "J"

Organizational Information

The Bidder must include a copy of their State Certificate of Good Standing/Articles of Incorporation, which lists the corporate officers. In addition to the aforementioned documents the Bidder/Bidder must include necessary information to verify the individual signing this proposal/bid and or any contract document has been authorized to bind the corporation. Examples include:

A. A copy of the Articles of Incorporation listing the approved signatories of the corporation.

B. A copy of a resolution listing the members of staff as authorized signatories for the company.

C. A letter from a corporate officer listing the members of staff that are authorized signatories for the company.

TYPE OF ORGANIZATION					
(Please place a check mark (✓) next to applicable type)					
	Corporation		Partnership		Non-Profit
	Joint Venture		Sole Proprietorship		Other (Please specify)
State of Incorporation					
Principal Place of Business (Enter Address)					
Federal I.D Number					

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

Bidder/Contractor Name:

_____

Mailing Address:

_____

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	**Solicitation Number: ITB B-23-15-COC**
	INVITATION TO BID (ITB)	**Due Date: 02/17/2023**
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Telephone Number: _____ Fax Number: _____ E-mail Address: _____

_____ _____ FEIN: _____

Authorized Signatory Printed Name

_____ _____

Title Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE

☞Failure to submit this form may be grounds for disqualification of your submittal☜

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "K"
Proposed Schedule of Subcontractor Participation

☐ **No Subcontracting (of any kind) will be utilized on this project.**		**Total Project Amount: $**	
Subcontractor Minority Code (if applicable)	Company Name Address Phone, Fax, Email	Trade, Services or Materials portion to be subcontracted	Percent (%) of Scope/Contract
Federal ID			Dollar Value
PERCENTAGE TOTALS FOR SUBCONTRACTOR PARTICIPATION			
PERCENTAGE TOTALS FOR MINORITY SUBCONTRACTOR PARTICIPATION			

Minority Code	Code Description	Minority Code	Code Description
AA	African American	NA	Native American
A	Asian/Pacific Islander	W	Woman
H	Hispanic	SDVBE	Service Disabled Veteran

When applicable, the Bidder, will enter into a formal agreement with the subcontractors identified herein for work listed in this schedule conditioned upon execution of a contract with the City. By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	**Solicitation Number: ITB B-23-15-COC**
	INVITATION TO BID (ITB)	**Due Date: 02/17/2023**
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Bidder/Contractor Name:

_____

Mailing Address: _____

Telephone Number: _____ Fax Number: _____ E-mail Address: _____

_____ _____ FEIN: _____

Authorized Signatory Printed Name

_____ _____

Title Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE

☞Failure to submit this form may be grounds for disqualification of your submittal☜

Attachment "L"

References

The Firm shall complete and submit this Reference Form as a part of their bid response. **Provide a minimum of five (5) projects performed by the Firm and completed within the last five (5) years**, which are similar type, scope, and complexity. References from projects that are at substantial completion will be accepted. (A Reference from City of Cocoa is not acceptable). The contact person provided shall be a person who has personal knowledge of the Bidder's performance for the specific requirements listed and is aware the City may be contacting them.

Project #1:				
Project Name:				
Type of Project/Service:				
Address:				
Contracting Agency/Client:				
Contact Name and Phone #:				
Contact Email Address and Fax #:				
Contract Amount:	Start Date:		End Date:	
Project #2:				
Project Name:				
Type of Project/Service:				
Address:				
Contracting Agency/Client:				
Contact Name and Phone #:				
Contact Email Address and Fax #:				
Contract Amount:	Start Date:		End Date:	
Project #3:				
Project Name:				
Type of Project/Service:				
Address:				
Contracting Agency/Client:				
Contact Name and Phone #:				
Contact Email Address and Fax #:				
Contract Amount:	Start Date:		End Date:	

Project #4:				
Project Name:				
Type of Project/Service:				
Address:				
Contracting Agency/Client:				
Contact Name and Phone #:				
Contact Email Address and Fax #:				
Contract Amount:	Start Date:		End Date:	
Project #5:				
Project Name:				
Type of Project/Service:				
Address:				
Contracting Agency/Client:				
Contact Name and Phone #:				
Contact Email Address and Fax #:				
Contract Amount:	Start Date:		End Date:	

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE

☞Failure to submit this form may be grounds for disqualification of your submittal☜

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "M"

Truth-in-Negotiations Certification

For lump-sum or fixed-fee Professional Service Agreements over One Hundred Ninety- Five Thousand and 00/100 Dollars ($195,000.00), the City requires the Respondent to execute this certificate and include it with their submittal.

Upon execution of an Agreement, Respondent hereby certifies that, in accordance with Section 287.055(5)(a), Florida Statutes (as amended), the wage rates and other factual unit costs supporting the compensation under this Agreement are accurate, complete and current as of the time of entering into this Agreement. The Parties agree that the City may adjust the original Agreement price and any additions thereto to exclude any significant sums by which the City determines the Agreement price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such price adjustments must be made within one (1) year following the end of the Agreement.

Proposer/Contractor Name:

_____

Mailing Address:

_____

Telephone Number: _____ Fax Number: _____ E-mail Address: _____

_____ _____ FEIN: _____

Authorized Signatory Printed Name

_____ _____

Title Date

STATE OF _____
COUNTY OF _____

The foregoing instrument was executed before me this ____ day of _____, 20__, by _____as_____of_____ _____, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced _____ as identification.

_____

NOTARY PUBLIC, State of _____

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE

☞Failure to submit this form may be grounds for disqualification of your submittal☜

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	**Solicitation Number: ITB B-23-15-COC**
	INVITATION TO BID (ITB)	**Due Date: 02/17/2023**
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "N"

Solicitation Response Identification Label

NOTICE TO ALL RESPONDENTS: For your convenience, the label below has been provided to properly identify your solicitation submittal. Place your submittal in a sealed envelope or package, type or print the company name and address in the area provided below and affix the label on the outer surface of the envelope or package.

City requests that all visitors call the Purchasing & Contracts Division from the courtesy phone located on the 1st Floor reception area. If you are hand-delivering a solicitation, a time/date stamp will be available at the receptionist desk. The solicitation submittal envelope or package and label will be date stamped and the Purchasing & Contracts Division will be notified. A record of all deliveries and delivery times will be documented on the Package Sign-In Sheet Receipt Log and such record will be retained.

PLEASE FILL OUT THE LABEL BELOW AND ATTACH SAME TO YOUR SOLICITATION RESPONSE ENVELOPE OR PACKAGE.

Cut out the label and tape it to the outer sealed solicitation envelope or package.

✂----------

****DO NOT OPEN**SEALED SOLICITATION**DO NOT OPEN**SEALED SOLICITATION****

ATTENTION: **PURCHASING & CONTRACTS DIVISION**

SOLICITATION NUMBER: **ITB BID #23-15-COC**

TITLE: **Cocoa Village Historic Playhouse Elevator Upgrades**

SOLICITATION DUE DATE: 02/17/23 TIME: 3:00pm Local Time

FROM: _____

_____

_____

DELIVER TO: City of Cocoa
Purchasing & Contracts Division
65 Stone Street
Cocoa, Florida 32922

****DO NOT OPEN**SEALED SOLICITATION**DO NOT OPEN**SEALED SOLICITATION****

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "O"

Contractor Certification Regarding Scrutinized Companies

Section 287.135, Florida Statutes, prohibits companies from bidding, submitting proposals, entering into or renewing contracts with a local government for goods or services that are on the Scrutinized Companies with Activities in Sudan List, on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Syria. Both lists are created pursuant to section 215.473, Florida Statutes.

In addition, regardless of contract value, the companies shall not be listed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or be engaged in a boycott of Israel if bidding, submitting proposals, entering into or renewing contacts with a local government for goods and services.

As the person authorized to sign on behalf of the company, I hereby certify that the company identified below is not listed on the Scrutinized Companies with Activities in Sudan List, is not listed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Syria. In addition, the company is not listed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel.

I further understand that pursuant to the Florida Statutes, the submission of a false certification, being placed on any of the Lists as indicated herein, conducting business operations with Syria, or boycotting Israel may subject the company to termination of the agreement, civil penalties, attorney's fees, and/or costs.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the company, certify that the information as provided in this **Contractor Certification Regarding Scrutinized Companies**, is truthful and correct at the time of submission.

Proposer/Contractor Name:

_____

Mailing Address:

_____

Telephone Number: _____ Fax Number: _____ E-mail Address: _____

_____ _____ FEIN: _____

Authorized Signatory Printed Name

_____ _____

Title Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE

☞Failure to submit this form may be grounds for disqualification of your submittal☜

Attachment "P"

E-Verify Contractor Affidavit

I hereby certify that _____ [insert contractor company name] does not employ, contract with, or subcontract with an unauthorized alien, and is otherwise in full compliance with, section 448.095, Florida Statutes.

All employees hired on or after January 1, 2021 have had their work authorization status verified through the E-Verify system.

A true and correct copy of _____ [insert contractor company name] proof of registration in the E-Verify system is attached to this Affidavit.

_____
Print Name: _____
Date: _____

STATE OF FLORIDA
COUNTY OF _____
The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ (date) by _____ (name of officer or agent, title of officer or agent) of _____ (name of corporation acknowledging) , a _____ (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ (type of identification) as identification.

_____
[Notary Seal] Notary Public

_____
Name typed, printed, or stamped
My Commission Expires: _____

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
PROOF OF REGISTRATION FROM E-VERIFY SYSTEM MUST BE ATTACHED
☞Failure to submit this form may be grounds for disqualification of your submittal☜

Attachment "Q"

Federally Required Contract Clauses
for FEMA Grantees and Subgrantees

1. ***Equal Employment Opportunity***

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or

in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24,1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

2. *Compliance with the Davis-Bacon Act*

The contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors are required to pay wages not less than once a week. Prevailing wage determinations are issued by the Department of Labor and can be found by visiting their website at: https://www.dol.gov/agencies/whd/government-contracts/construction. These rates may be subject to change based on the January 2022 update.

3. *Compliance with the Copeland "Anti-Kickback" Act*

a. Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
b. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment

4. Compliance with the Contract Work Hours and Safety Standards Act

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
(3) *Withholding for unpaid wages and liquidated damages.* The CITY OF COCOA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
(4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section

~~**5. Rights to Inventions Made Under a Contract or Agreement**~~ **- Not Applicable**

~~Include CFR Title 37 § 401.14 Standard patent rights clauses when applicable~~

~~**6. Clean Air Act**~~ **- Not Applicable**

~~a. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.~~

~~b. The contractor agrees to report each violation to the City of Cocoa and understands and agrees that the City of Cocoa will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.~~

~~c. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with federal assistance provided by FEMA.~~

~~**7. Federal Water Pollution Control Act**~~ **- Not Applicable**

~~a. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.~~

~~b. The contractor agrees to report each violation to the City of Cocoa and understands and agrees that the City of Cocoa will, in turn, report each violation as required to assure notification to the Florida Division of Emergency Management, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.~~

~~c. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with federal assistance provided by FEMA.~~

8. Suspension and Debarment

a. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

b. The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

c. This certification is a material representation of fact relied upon by the City. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida and, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

d. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

9. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

a. Contractors who apply or bid for an award of more than $100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to

pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.

10. PROCUREMENT OF RECOVERED MATERIALS

a. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
   i. Competitively within a timeframe providing for compliance with the contract performance schedule;
   ii. Meeting contract performance requirements; or
   iii. At a reasonable price.

b. Information about this requirement, along with the list of EPA designated items, is available at EPA's Comprehensive Procurement guidelines web site, https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program.

c. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

11. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

a. Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

b. Prohibitions.
   i. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
   ii. Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
      1. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
      2. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of

any system;

3. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
4. Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

c. *Exceptions.*

i. This clause does not prohibit contractors from providing—

1. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
2. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

ii. By necessary implication and regulation, the prohibitions also do not apply to:

1. Covered telecommunications equipment or services that:
   a. Are *not used* as a substantial or essential component of any system; *and*
   b. Are *not used* as critical technology of any system.
2. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

d. *Reporting requirement.*

i. In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

ii. The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:

1. Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
2. Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook

to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

e. *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

12. DOMESTIC PREFERENCES FOR PROCUREMENTS

a. As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause:
   i. Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
   ii. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

13. Access to Records

The following access to records requirements apply to this contract:

(1) The contractor agrees to provide the City, the State of Florida, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

14. *DHS Seal, Logo, and Flags*

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA preapproval.

15. *Compliance with Federal Law, Regulations, and Executive Orders*

This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The Contractor will comply will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

16. *No Obligation by Federal Government*

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

17. *Program Fraud and False or Fraudulent Statements or Related Acts*
The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract. *Byrd Anti-Lobbying Amendment* Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.
APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements
(To be submitted with each bid or offer exceeding $100,000)
The undersigned [Contractor] certifies, to the best of his or her knowledge, that:
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Contractor,_____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

_____
Signature of Contractor's Authorized Official

_____

Name and Title of Contractor's Authorized Official

_____

Date

18. *Affirmative Socioeconomic Steps*

If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

19. ~~*Copyright and Data Rights –*~~ ***Not applicable***

~~The Contractor grants to the CITY OF COCOA a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the CITY OF COCOA or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the CITY OF COCOA first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the CITY OF COCOA.~~

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

RESPONSE COVER PAGE

COMPANY NAME	Sapphire Elevator, LLC
ADDRESS	7073 N. Atlantic Ave Cape Canaveral, Fl 32920
PRIMARY CONTACT	Paul Friedl
TELEPHONE #	321-501-2121
EMAIL ADDRESS	Paul@Sapphireelevator.com

SUBMITTAL CHECKLIST

[X]	SUBMITTAL REQUIREMENT / DOCUMENT
	Original Submittal Package bound with binder clip
✓	Attended Pre-Bid Meeting (if Mandatory)
	Cover Letter (not required)
✓	Attachment "A" Submittal Acknowledgment
✓	Attachment "B" Addendum Acknowledgement
✓	Attachment "C" Insurance Requirements
X	Attachment "D" Bid Security Bond (if required)
✓	Attachment "E" Bid Price Schedule
✓	Attachment "F" Trench Safety (if required)
✓	Attachment "G" Certificate of Non-Segregated Facilities
✓	Attachment "H" Drug-Free Workplace
✓	Attachment "I" Conflict of Interest and Non-Collusion
✓	Attachment "J" Organizational Info
✓	Attachment "K" Subcontractor Participation
✓	Attachment "L" References
✓	Attachment "M" Truth-in-Negotiations
✓	Attachment "N" Solicitation Label affixed to envelope
✓	Attachment "O" Scrutinized Companies
✓	Attachment "P" E-Verify Affidavit (including screenshot from website showing active account)
✓	Attachment "Q" Federally Required Contract Clauses
✓	Proof of Florida Registration (if required)
✓	Professional License(s) (if required)
✓	W9
✓	Proof of Insurance
✓	USB drive with electronic copy of submittal

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	**Due Date:** **02/17/2023**
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "A"

Submittal Acknowledgement

By executing below, the undersigned individual hereby represents and warrants that they have the full authority on behalf of respondent to submit a response to the City of Cocoa and bind the Respondent to the terms and conditions of this solicitation. The Respondent represents and warrants to the City of Cocoa that they have read, understand, and agree to abide by all the terms and conditions set forth in the solicitation and all subsequently issued addendums.

Respondent certifies, represents, and warrants that all information contained in Respondent's submittal is accurate and truthful and that the City of Cocoa will rely on said information during its review of the submittal. Respondent understands and agrees that misleading, fraudulent, untruthful, and deceitful information, whether presented to the City in writing or verbally, shall be grounds for immediate disqualification.

THE UNDERSIGNED RESPONDENT HEREBY AGREES TO THE TERMS AND CONDITIONS SET FORTH ABOVE AND CONTAINED ELSEWHERE IN THIS SOLICITATION.

Signature _____ Date 2/13/2023

Name: Paul Friedl

Title: Operation Manager

Company Name: Sapphire Elevator, LLC

STATE OF FLORIDA
COUNTY OF Brevard

The foregoing instrument was acknowledged before me by means of ☑ physical presence or ☐ online notarization, this 2/16/2023 (date) by Paul Friedl (name of officer or agent, title of officer or agent) of _____ (name of corporation acknowledging), a _____ (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced FL DL (type of identification) as identification.

_____
[Notary Seal] Notary Public

MAUREEN ARENAS
Notary Public - State of Florida
Commission # GG 333860
My Comm. Expires May 13, 2023

_____
Name typed, printed, or stamped
My Commission Expires: _____

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	**Due Date:** **02/17/2023**
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "B"
Addendum Receipt Acknowledgement Certification

The undersigned acknowledges receipt of the following addenda to the solicitation document(s) (Give number and date of each):

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided in herein, is truthful and correct at the time of submission.

Bidder/Contractor Name: Paul Fridl, Sapphire Elevator, LLC

Mailing Address: 7073 N. Atlantic Ave Cape Canaveral, Fl 32920

Telephone Number: 321-613-3300 Fax Number: _____ E-mail Address: Paul@sapphireelevator.com

Authorized Signatory

Paul Fridl FEIN: 84-4141376
Printed Name

Operation Manager
Title

2/13/2023
Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
Failure to submit this form may be grounds for disqualification of your submittal

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	**Due Date:** **02/17/2023**
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "C"
Insurance Requirements

A. Insurance. The successful Bidder/Contractor shall not commence any work in connection with an agreement until it has obtained all of the required types of insurance and has provided proof of same to the City, in the form of a certificate prior to the start of any work, nor shall the successful Bidder/Contractor allow any subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been so obtained and approved. All insurance policies shall be with insurers qualified and doing business in Florida.

B. Limits. The successful Bidder/Contractor and/or subcontractor shall maintain the types of insurance, with at a minimum the respective limits as outlined herein:

Automobile combined single limit or	$1,000,000.00
a) Automobile Bodily Injury and	$ 500,000.00
b) Automobile Property Damage	$ 500,000.00
Umbrella / Excess Liability	
a) Liability each occurrence	$1,000,000.00
b) Aggregate combined limit (policy year)	$2,000,000.00
Commercial General Liability	
a) Each Occurrence	$1,000,000.00
b) Medical Expense (Any one Person)	$ 5,000.00
c) Personal & Adv. Injury	$1,000,000.00
d) General Aggregate	$2,000,000.00
e) Products – Comp/OP AGG	$2,000,000.00
Worker's Compensation	$1,000,000.00

Worker's Compensation: Employers' liability insurance, which covers the statutory obligation for all persons, engaged in the performance of the work required hereunder with limits not less than $1,000,000.00 per occurrence. Evidence of qualified self-insurance status will suffice for this subsection. The Bidder understands and acknowledges that it shall be solely responsible for all medical and liability costs associated with an injury to itself and/or to its employees, sub-contractors, volunteers, and the like, including the costs to defend the City in the event of litigation against same.

C. City as Additional Insured. The successful Bidder/Contractor and/or subcontractor shall name the "City of Cocoa" as an Additional Insured, to the extent of the services to be provided hereunder, on all required insurance policies, and provide the City with proof of same.

D. Certificates of Insurance. The successful Bidder/Contractor and/or subcontractor shall provide the City's Purchasing & Contracts Division with a Certificate of Insurance evidencing such coverage for the duration of this Agreement. Said Certificate of Insurance shall be dated and show:

1. The name of the insured Contractor,
2. The specified job by name and job number,
3. The name of the insurer,
4. The number of the policy,
5. The effective date,
6. The termination date,
7. A statement that the insurer will mail notice to the City at least thirty (30) days prior to any material changes in the provisions or cancellation of the policy, and;
8. The Certificate Holders Box must read as follows:
   City of Cocoa
   c/o Administrative Services Director
   65 Stone Street
   Cocoa, Florida 32922

Any other wording in the Certificate Holders Box shall not be acceptable. Non-conforming certificates will be returned for correction.

***NOTE – FOR CONTRACTING PURPOSES, THE CERTIFICATE OF INSURANCE MUST BE DELIVERED TO CITY OF COCOA, PURCHASING & CONTRACTS DIVISION, 65 STONE STREET, COCOA, FLORIDA 32922**

E. Waiver. Receipt of certificates or other documentation of insurance or policies or copies of policies by the City, or by any of its representatives, which indicates less coverage than is required, does not constitute a waiver of the successful Bidder's/Contractor's obligation to fulfill the insurance requirements specified herein.

F. Subcontractors. The successful Bidder/Contractor shall ensure that any sub-contractor(s), hired to perform any of the duties contained in the Scope of Services of an Agreement, maintain the same insurance requirements set forth herein. In addition, the successful Bidder/Contractor shall maintain proof of same on file and make readily available upon request by the City.

G. Loss Deductible Clause. The City shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the successful Bidder/Contractor and/or subcontractor providing such insurance.

H. Additional Requirements. All insurance carriers shall have AM Best Rating of at least A, and a size VII or larger. The General Liability and Workers Compensation policies shall have a waiver of subrogation in favor of the City of Cocoa. The liability policies shall be Primary/Non-Contributory.

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

AFFIANT SIGNATURE

Paul Friedl
Typed Name of AFFIANT

Operations Manager
Title

The foregoing instrument was executed before me this 16 day of February, 2023, by Paul Friedl as _____ of _____, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced FL DL as identification.

MAUREEN ARENAS
Notary Public - State of Florida
Commission # GG 333860
My Comm. Expires May 13, 2023

NOTARY PUBLIC Arenas
STATE OF Florida
MY COMMISSION EXPIRES: May 13, 2023

The City reserves the unilateral right to modify the insurance requirements set forth at any time during the process of solicitation or subsequent thereto.

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☛Failure to submit this form may be grounds for disqualification of your submittal☚

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	**Due Date:** **02/17/2023**
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "C"
Addendum Receipt Acknowledgement Certification

The undersigned acknowledges receipt of the following addenda to the solicitation document(s) (Give number and date of each):

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided in herein, is truthful and correct at the time of submission.

Bidder/Contractor Name: Sapphire Elevator, LLC

Mailing Address: 7073 N. Atlantic Ave Cape Canaveral, Fl 32920

Telephone Number: 321-613-3300 Fax Number: _____ E-mail Address: Paul@sapphireelevator.com

Authorized Signatory

Paul Friedl FEIN: 84-414 1376
Printed Name

Operation Manager
Title

2/13/2023
Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
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TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "E"
Bid Price Schedule and Acceptance of Terms and Conditions

Each Bidder shall fill out and complete the Bid Schedule form included in this Section and shall submit the appropriate number of copies as part of the Bid. The purpose of the Bid Schedule is to provide a uniform comparison of the bids. This Contract is a **LUMP SUM CONTRACT consisting of two separate project sums. Award of this contract will be based on the Total Lump Sum Price of the Base Bid Items.** The Bidder is to include all costs Bidder may anticipate during the length of this project and the contract. Each Bidder shall include all extras the Bidder may determine necessary to provide the quantity and quality of Work required by the Contract Documents. Fill in the following bid breakdown which will be used to determine bid completeness and understanding, then fill in the Subtotal and Total Lump Sum Bid Prices on the lines provided. The total bid price must be equal to the sum of the values in the bid breakdown. The verified sum of the individual values in the bid breakdown takes precedence over any discrepancy between the Total Lump Sum Bid Price written and the corrected total lump sum bid price.

Item	Item Description	Unit	Total Price
1	Retain 2500 Capacity Car/Cab Enclosure – Replace / refurbish wheels and rollers	LS	$ 4,583.00
2	New in car/cab operating panel with vandalism resistant fixtures. Update Emergency Lighting.	LS	$ 14,250.00
3	New non-proprietary motion control system including logic controller	LS	13,750.00
4	New travel limit switches	LS	1560.00
5	New door and entrance operators.	LS	6800.00
6	New Hall Fixtures using one-inch display with vandalism resistant fixture	LS	11,050.00
7	New hydraulic motor, pump, valves, oil, and muffler	LS	9,500.00
8	New Fire Alarm / Call Phone / Connection to Silent Knight panel	LS	
9	New related wiring as necessary	LS	2,300.00
10	Retain existing pit, refurbish as necessary	LS	750.00
11	Provide 2 as-built sets of drawings including wiring schematics	LS	750.00
Project Total			$ 65,233.00

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ALTERNATE:

Item	Item Description	Unit	Total Price
1	Provide a second set of control boards for future maintenance repair.	LS	$ 1850.00

Bidder/Contractor Name: Sapphire Elevator, LLC

Mailing Address: 7073 N Atlantic Ave Cape Canaveral, FL 32926

Telephone Number: 321-501-2121 E-mail Address: Paul@Sapphireelevator.com

Authorized Signatory

Paul Friedl FEIN: 84-4141376
Printed Name

Operation Manager
Title

2/13/2023
Date

STATE OF Florida COUNTY OF Brevard

The foregoing instrument was executed before me this 16 day of February, 2023, by Paul Friedl as _____ of _____, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced FL DL as identification.

MAUREEN ARENAS
Notary Public - State of Florida
Commission # GG 333860
My Comm. Expires May 13, 2023

NOTARY PUBLIC, State of Florida

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☛Failure to submit this form may be grounds for disqualification of your submittal☚

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
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TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "F"
Trench Safety Certification

Section 553.62, Florida Statutes incorporates the Occupational Safety and Health Administration's (OSHA) safety standards, 29 CFR Section 1926.650 Subpart P, as the State standard. The Department of Labor and Employment Security may adopt updated or revised versions by rule. Other State or political subdivisions may also have standards that are applicable.

If trench excavation is required on the Project more than 5-feet in depth, the Bidder will identify the cost of compliance with the applicable trench safety standards in the table below. If there is no trench excavation on the Project in excess of 5-feet in depth, write "not applicable" below. All costs to comply with trench safety standards will be incidental to the Project or various related Pay Items.

	Trench Safety Measure (Description)	Units of Measure	Quantity	Unit Cost	Extended Cost
1.					
2.					
3.					
4.					
5.					

(Attach Separate Sheet if Necessary)

If applicable, this certifies that all trench excavation performed within the control of the Contractor will be in accordance with all applicable standards and with the Specifications, and with all requirements of Florida Statute, Sections 553.63(1)(a), 553.63(1)(b), and 553.63(1)(c).

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

Bidder/Contractor Name: Sapphire Elevator, LLC

Mailing Address: 7073 N. Atlantic Ave Cape Canaveral, FL 32820

Telephone Number: 321-501-2121 Fax Number: — E-mail Address: Paul@sapphireelevator.com

FEIN: 84-4141376

Authorized Signatory

Paul Friedl
Printed Name

Operation Manager
Title

2/13/2023
Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
Failure to submit this form may be grounds for disqualification of your submittal

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
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TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "G"
Certificate of Non-Segregated Facilities

CERTIFICATION TO BE SUBMITTED BY CONSTRUCTION CONTRACTORS OF APPLICANTS AND THEIR SUBCONTRACTORS (APPLICABLE TO CONSTRUCTION CONTRACTS AND RELATED SUBCONTRACTS EXCEEDING TEN THOUSAND DOLLARS (US $10,000.00) WHICH ARE NOT EXEMPT FROM THE EQUAL OPPORTUNITY CLAUSE)

The construction Contractor certifies that it does not maintain or provide, for its employees, any segregated facilities at any of its establishments and that construction Contractor do not permit its employees to perform their services at any location, under construction Contractor's control, where segregated facilities are maintained. The construction Contractor certifies that it will not maintain or provide, for its employees, segregated facilities at any of its establishments and that construction Contractor will not permit its employees to perform their services at any location, under construction Contractor's control, where segregated facilities are maintained. The construction Contractor agrees that a breach of this certification is a violation of the equal opportunity clause in this Contract. As used in this certification, the term "segregated facilities" means any waiting room, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, and transportation and housing facilities provided for employees which are segregated by explicit directives or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason. The construction Contractor agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding ten thousand dollars (US $10,000.00) which are not exempt from the provisions of the equal opportunity clause and that construction Contractor will retain such certifications in its files.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

Bidder/Contractor Name: Sapphire Elevator, LLC

Mailing Address: 7073 N. Atlantic Ave Cape Canaveral, Fl 32920

Telephone Number: 321-501-2121 E-mail Address: Paul@Sapphireelevator.Com

Authorized Signatory

Paul Friedl FEIN: 84-4141376
Printed Name

Operation Manager
Title

2/13/2023
Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☛Failure to submit this form may be grounds for disqualification of your submittal☚

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "H"

Drug-Free Workplace Certification

When applicable, the drug-free certification form below must be signed and returned with the ITB response.

In order to have a drug-free workplace program, a business shall:

A. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

B. Inform employees about the dangers of drug abuse in the workplace, the business' policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.

C. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in the first paragraph.

D. In the statement specified in the first paragraph, notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893, Florida Statutes, or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.

E. Impose a sanction on, or require the satisfactory participation in, a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.

F. Make a good faith effort to continue to maintain a drug-free workplace through implementation of the foregoing provisions.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

AFFIANT SIGNATURE

Paul Friedl

Typed Name of AFFIANT

Operation Manager

Title

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

STATE OF Florida
COUNTY OF Brevard

The foregoing instrument was executed before me this 16 day of February, 2023 by Paul Friedl as _____ of _____, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced FL DL as identification.

MAUREEN ARENAS
Notary Public - State of Florida
Commission # GG 333860
My Comm. Expires May 13, 2023

NOTARY PUBLIC, State of Florida

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE – (if applicable)

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "I"
Conflict of Interest and Non-Collusion Statement

A. This sworn statement is submitted by Paul Friedl / Sapphire Elevator whose business address is [Name of entity submitting sworn statement] and (if applicable) its Federal Employer Identification Number (FEIN) is 84-4143 76 of the individual signing this sworn statement: _____.

My name is Paul Friedl and my relationship to the above entity is owner.

[Please print name of individual signing]

B. **CONFLICT OF INTEREST**

A. The entity hereby submits a proposal/offer to ITB # B-23-15-COC for Elevator / MOD Services.

B. The AFFIANT has made diligent inquiry and provided the information in this statement affidavit based upon its full knowledge.

C. The AFFIANT states that only one submittal for this solicitation has been submitted and tendered by the appropriate date and time and that said above stated entity has no financial interest in other entities submitting a proposal for the work contemplated hereby.

D. Neither the AFFIANT nor the above-named entity has directly or indirectly entered into any agreement, participated in any collusion or collusive activity, or otherwise taken any action which in any way restricts or restraints the competitive nature of this solicitation, including but not limited to the prior discussion of terms, conditions, pricing, or other offer parameters required by this solicitation.

E. Neither the entity nor its affiliates, nor anyone associated with them, is presently suspended or otherwise prohibited from participation in this solicitation or any contract to follow thereafter by any government entity.

F. Neither the entity nor its affiliates, nor anyone associated with them, have any potential conflict of interest because and due to any other clients, contracts, or property interests in this solicitation or the resulting project.

G. I hereby also certify that no member of the entity's ownership or management or staff has a vested interest in any City Division/Department/Office.

H. I certify that no member of the entity's ownership or management is presently applying, actively seeking, or has been selected for an elected position within City of Cocoa government.

I. In the event that a conflict of interest is identified in the provision of services, I, the undersigned will immediately notify the City in writing.

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

C. **NON-COLLUSION PROVISION CERTIFICATION**

The undersigned hereby certifies, to the best of his or her knowledge and belief, that on behalf of the person, firm, association, or corporation submitting the bid certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the submitted bid. Failure to submit the executed statement as part of the bidding documents will make the bid nonresponsive and not eligible for award consideration.

D. **LOBBYING CERTIFICATION**

The undersigned hereby certifies, to the best of his or her knowledge and belief, that:

1. No City appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence either directly or indirectly an officer or employee of the City, City Council Member of Congress in connection with the awarding of any City Contract.
2. If any funds other than City appropriated funds have been paid or will be paid to any person for influencing or attempting to influence a member of City Council or an officer or employee of the City in connection with this contract, the undersigned shall complete and submit Standard Form-L "Disclosure Form to Report Lobbying", in accordance with its instructions.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

_____
AUTHORIZED SIGNATURE

Paul Friedl
Typed Name of AUTHORIZED SIGNATORY

Operation Manager
Title

STATE OF Florida
COUNTY OF Brevard

The foregoing instrument was executed before me this 16 day of February, 2023, by Paul Friedl as _____ of _____, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced FL DL as identification.

MAUREEN ARENAS
Notary Public - State of Florida
Commission # GG 333860
My Comm. Expires May 13, 2023

_____
NOTARY PUBLIC, State of Florida

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
Failure to submit this form may be grounds for disqualification of your submittal

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
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TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "J"

Organizational Information

The Bidder must include a copy of their State Certificate of Good Standing/Articles of Incorporation, which lists the corporate officers. In addition to the aforementioned documents the Bidder/Bidder must include necessary information to verify the individual signing this proposal/bid and or any contract document has been authorized to bind the corporation. Examples include:

A. A copy of the Articles of Incorporation listing the approved signatories of the corporation.

B. A copy of a resolution listing the members of staff as authorized signatories for the company.

C. A letter from a corporate officer listing the members of staff that are authorized signatories for the company.

TYPE OF ORGANIZATION					
(Please place a check mark (✓) next to applicable type)					
✓	Corporation		Partnership		Non-Profit
	Joint Venture		Sole Proprietorship		Other (Please specify)
State of Incorporation		Florida			
Principal Place of Business (Enter Address)		7073 N. Atlantic Ave Cape Canaveral, FL 32920			
Federal I.D Number		84-4143 76			

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

Bidder/Contractor Name: Sapphire Elevator, LLC

Mailing Address: 7073 N. Atlantic Ave Cape Canaveral, FL 32920

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Telephone Number: 321-613-3300 Fax Number: _____ E-mail Address: Paul@scandinavianelevator.com

[signature]
Authorized Signatory

Paul Friedl
Printed Name

FEIN: 84-4143776

Operation Manager
Title

2/13/2023
Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
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	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "K"
Proposed Schedule of Subcontractor Participation

☑ **No Subcontracting (of any kind) will be utilized on this project.**		**Total Project Amount: $**	
Subcontractor Minority Code (if applicable)	Company Name Address Phone, Fax, Email	Trade, Services or Materials portion to be subcontracted	Percent (%) of Scope/Contract
Federal ID			Dollar Value
PERCENTAGE TOTALS FOR SUBCONTRACTOR PARTICIPATION			
PERCENTAGE TOTALS FOR MINORITY SUBCONTRACTOR PARTICIPATION			

Minority Code	Code Description	Minority Code	Code Description
AA	African American	NA	Native American
A	Asian/Pacific Islander	W	Woman
H	Hispanic	SDVBE	Service Disabled Veteran

When applicable, the Bidder, will enter into a formal agreement with the subcontractors identified herein for work listed in this schedule conditioned upon execution of a contract with the City. By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided herein, is truthful and correct at the time of submission.

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Bidder/Contractor Name: Sapphire Elevator, LLC

Mailing Address: 7073 N. Atlantic Ave Cape Canaveral, FL 32920

Telephone Number: 321-613-3300 Fax Number: _____ E-mail Address: Paul@sapphireelevator.com

Authorized Signatory

Paul Friedl FEIN: 84-414 1376
Printed Name

Operation Manager
Title

2/13/2023
Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
Failure to submit this form may be grounds for disqualification of your submittal

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Bidder/Contractor Name: Sapphire Elevator, LLC

Mailing Address: 7073 N. Atlantic Ave Cape Canaveral, FL 32920

Telephone Number: 321-613-3300 Fax Number: _____ E-mail Address: Paul@sapphireelevator.com

Authorized Signatory

Paul Friedl FEIN: 84-414 1376
Printed Name

Operation Manager
Title

2/13/2023
Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
Failure to submit this form may be grounds for disqualification of your submittal

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "L"

References

The Firm shall complete and submit this Reference Form as a part of their bid response. **Provide a minimum of five (5) projects performed by the Firm and completed within the last five (5) years**, which are similar type, scope, and complexity. References from projects that are at substantial completion will be accepted. (A Reference from City of Cocoa is not acceptable). The contact person provided shall be a person who has personal knowledge of the Bidder's performance for the specific requirements listed and is aware the City may be contacting them.

Project #1:				
Project Name: Treasure Island Building #1				
Type of Project/Service: Mod of controller, wiring, new fixtures, new pumping unit new door equipment				
Address: 300 Columbia Drive Cape Canaveral, FL 32920				
Contracting Agency/Client: Treasure Island Management				
Contact Name and Phone #: Mary Burns 321-458-6763				
Contact Email Address and Fax #: MaryKburns01@att.net				
Contract Amount: 71,000	Start Date:	1-23-23	End Date:	2-16-23
Project #2:				
Project Name: Treasure Island Building #3				
Type of Project/Service: Mod of controller, wiring, new fixtures, new pumping unit new door equipment				
Address: 300 Columbia Dr Cape Canaveral, Fl 32920				
Contracting Agency/Client: Treasure Island Management				
Contact Name and Phone #: Mary Burns 321-458-6763				
Contact Email Address and Fax #: MaryKburns01@att.net				
Contract Amount: 71.500.00	Start Date:	09-22	End Date:	10-28
Project #3:				
Project Name: Rush Construction				
Type of Project/Service: Install wheelchair lift, stair lift and Full Mod. Charge controller, pumping unit, wire and Fixtures				
Address: 6225 Riverfront Center Blvd Titusville, Fl				
Contracting Agency/Client: Rush construction				
Contact Name and Phone #: Ben Thornton 321-207-8100				
Contact Email Address and Fax #:				
Contract Amount: 68,000	Start Date:	July 28	End Date:	August 16

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023

TITLE: Cocoa Village Historic Playhouse Elevator Upgrades

Project #4:				
Project Name: Shady Dell Condo				
Type of Project/Service: MOD on controller, wiring, door operator, fixtures and pumping unit				
Address: 3150 N. Atlantic Ave Melbourne, FL 32935				
Contracting Agency/Client: Fred Leasure				
Contact Name and Phone #: 412-952-2508				
Contact Email Address and Fax #: fhlea97@gmail.com				
Contract Amount: 62,000.00	Start Date:	June 6	End Date:	6/4/3
Project #5:				
Project Name: Buccaneer Condo				
Type of Project/Service: Mod on pumping unit, wiring and controller				
Address: 1175 A1A Satellite, Fl 32937				
Contracting Agency/Client: [redacted] Condo Board President				
Contact Name and Phone #: Ricc credo 831-760-0167				
Contact Email Address and Fax #: riccercogiuliano@icloud.com				
Contract Amount: 56,000	Start Date:	March 6	End Date:	April

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE

Failure to submit this form may be grounds for disqualification of your submittal

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "M"

Truth-in-Negotiations Certification

For lump-sum or fixed-fee Professional Service Agreements over One Hundred Ninety- Five Thousand and 00/100 Dollars ($195,000.00), the City requires the Respondent to execute this certificate and include it with their submittal.

Upon execution of an Agreement, Respondent hereby certifies that, in accordance with Section 287.055(5)(a), Florida Statutes (as amended), the wage rates and other factual unit costs supporting the compensation under this Agreement are accurate, complete and current as of the time of entering into this Agreement. The Parties agree that the City may adjust the original Agreement price and any additions thereto to exclude any significant sums by which the City determines the Agreement price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such price adjustments must be made within one (1) year following the end of the Agreement.

Proposer/Contractor Name: Sapphire Elevator, LLC

Mailing Address: 7073 N. Atlantic Ave Cape Canaveral, FL 32920

Telephone Number: 321-613-3300 Fax Number: — E-mail Address: Paul

Authorized Signatory

Paul Friedl FEIN: 84-4141376

Printed Name

Operation Manager

Title

2/13/2022

Date

STATE OF Florida
COUNTY OF Brevard

The foregoing instrument was executed before me this 16 day of February, 2023, by Paul Friedl as _____ of _____, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced FL DL as identification.

MAUREEN ARENAS
Notary Public · State of Florida
Commission # GG 333860
My Comm. Expires May 13, 2023

NOTARY PUBLIC, State of Florida

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE

Failure to submit this form may be grounds for disqualification of your submittal

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "O"

Contractor Certification Regarding Scrutinized Companies

Section 287.135, Florida Statutes, prohibits companies from bidding, submitting proposals, entering into or renewing contracts with a local government for goods or services that are on the Scrutinized Companies with Activities in Sudan List, on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Syria. Both lists are created pursuant to section 215.473, Florida Statutes.

In addition, regardless of contract value, the companies shall not be listed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or be engaged in a boycott of Israel if bidding, submitting proposals, entering into or renewing contacts with a local government for goods and services.

As the person authorized to sign on behalf of the company, I hereby certify that the company identified below is not listed on the Scrutinized Companies with Activities in Sudan List, is not listed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Syria. In addition, the company is not listed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel.

I further understand that pursuant to the Florida Statutes, the submission of a false certification, being placed on any of the Lists as indicated herein, conducting business operations with Syria, or boycotting Israel may subject the company to termination of the agreement, civil penalties, attorney's fees, and/or costs.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the company, certify that the information as provided in this **Contractor Certification Regarding Scrutinized Companies**, is truthful and correct at the time of submission.

Proposer/Contractor Name: Sapphire Elevator, LLC

Mailing Address: 7073 N. Atlantic Ave Cape Canaveral, Fl 32920

Telephone Number: 321-613-3300 Fax Number: — E-mail Address: Paul@sapphireelevator.com

[signature] Paul Friedl FEIN: 84-4141376

Authorized Signatory Printed Name

Operation Manager 2/13/2023

Title Date

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE

Failure to submit this form may be grounds for disqualification of your submittal

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "P"

E-Verify Contractor Affidavit

I hereby certify that Sapphire Elevator [insert contractor company name] does not employ, contract with, or subcontract with an unauthorized alien, and is otherwise in full compliance with, section 448.095, Florida Statutes.

All employees hired on or after January 1, 2021 have had their work authorization status verified through the E-Verify system.

A true and correct copy of Sapphire Elevator [insert contractor company name] proof of registration in the E-Verify system is attached to this Affidavit.

Print Name: Paul Friedl
Date: 2/13/2023

STATE OF FLORIDA
COUNTY OF Brevard

The foregoing instrument was acknowledged before me by means of ☑ physical presence or ☐ online notarization, this 2/16/2023 (date) by Paul Friedl (name of officer or agent, title of officer or agent) of _____ (name of corporation acknowledging), a _____ (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced FL DL (type of identification) as identification.

[Notary Seal] Notary Public

Name typed, printed, or stamped
My Commission Expires: May 13, 2023

MAUREEN ARENAS
Notary Public - State of Florida
Commission # GG 333860
My Comm. Expires May 13, 2023

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
PROOF OF REGISTRATION FROM E-VERIFY SYSTEM MUST BE ATTACHED
Failure to submit this form may be grounds for disqualification of your submittal

Attachment "Q"

Federally Required Contract Clauses
for FEMA Grantees and Subgrantees

1. ***Equal Employment Opportunity***

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or

in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24,1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

2. *Compliance with the Davis-Bacon Act*

The contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors are required to pay wages not less than once a week. Prevailing wage determinations are issued by the Department of Labor and can be found by visiting their website at: https://www.dol.gov/agencies/whd/government-contracts/construction. These rates may be subject to change based on the January 2022 update.

3. ***Compliance with the Copeland "Anti-Kickback" Act***

   a. Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
   b. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
   c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment

4. **Compliance with the Contract Work Hours and Safety Standards Act**

   (1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
   (2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
   (3) *Withholding for unpaid wages and liquidated damages.* The CITY OF COCOA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
   (4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section

pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.

10. PROCUREMENT OF RECOVERED MATERIALS

a. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
   i. Competitively within a timeframe providing for compliance with the contract performance schedule;
   ii. Meeting contract performance requirements; or
   iii. At a reasonable price.

b. Information about this requirement, along with the list of EPA designated items, is available at EPA's Comprehensive Procurement guidelines web site, https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program.

c. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

11. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

a. Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

b. Prohibitions.
   i. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
   ii. Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
      1. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
      2. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of

any system;

3. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
4. Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

c. *Exceptions.*

i. This clause does not prohibit contractors from providing—

1. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
2. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

ii. By necessary implication and regulation, the prohibitions also do not apply to:

1. Covered telecommunications equipment or services that:
   a. Are *not used* as a substantial or essential component of any system; *and*
   b. Are *not used* as critical technology of any system.
2. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

d. *Reporting requirement.*

i. In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

ii. The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:

1. Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
2. Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook

2022 FLORIDA LIMITED LIABILITY COMPANY ANNUAL REPORT

FILED
Mar 15, 2022
Secretary of State
6741376030CC

DOCUMENT# L19000303047

Entity Name: SAPPHIRE ELEVATOR, LLC

Current Principal Place of Business:

7073 N ATLANTIC AVE
UNIT #2
CAPE CANAVERAL, FL 32920

Current Mailing Address:

7073 N ATLANTIC AVE
UNIT #2
CAPE CANAVERAL, FL 32920 US

FEI Number: 84-4141376

Certificate of Status Desired: No

Name and Address of Current Registered Agent:

BARNES, WALTER H
580 PAULA AVENUE
MERRITT ISLAND, FL 32953 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: _____

Electronic Signature of Registered Agent — Date

Authorized Person(s) Detail :

Title	PRESIDENT, SECRETARY, TREASURER
Name	BARNES, BONNIE L
Address	580 PAULA AVENUE
City-State-Zip:	MERRITT ISLAND FL 32953

Title	VP
Name	FRIEDL, PAUL M
Address	4252 STARLING PL
City-State-Zip:	MIMS FL 32754

Title	VP
Name	FRIEDL, STEPHANIE S
Address	4252 STARLING PL
City-State-Zip:	MIMS FL 32754

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 605, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: BONNIE BARNES PRESIDENT 03/15/2022

Electronic Signature of Signing Authorized Person(s) Detail — Date

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

▶ Go to *www.irs.gov/FormW9* for instructions and the latest information.

Give Form to the requester. Do not send to the IRS.

Print or type. See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

SAPPHIRE ELEVATOR, LLC

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☑ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.

7073 N ATLANTIC AVE, UNIT 2

Requester's name and address (optional)

6 City, state, and ZIP code

CAPE CANAVERAL, FL 32920

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

			–			–				

or

Employer identification number

8	4	–	4	1	4	1	3	7	6

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here | **Signature of U.S. person** ▶ Stephen Bae | **Date** ▶ 2/16/2023

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 6/6/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER RBN & Associates, Inc. 303 E Wacker Dr Ste 650 Chicago IL 60601	**CONTACT NAME:** Rich Delich **PHONE (A/C, No, Ext):** 312-856-9400 **FAX (A/C, No):** 312-856-9425 **E-MAIL ADDRESS:** rdelich@rbninsurance.com
INSURED SAPPELE-01 Sapphire Elevator LLC 7073 N. Atlantic Ave. Unit 2 Cape Canaveral FL 32920	**INSURER(S) AFFORDING COVERAGE** — **NAIC #** **INSURER A :** Great American Insurance Co. — 16691 **INSURER B :** National Union Fire Ins. Co. of Pittsburgh, PA — 19445 **INSURER C :** Wesco Insurance Company — 25011 **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 352015895 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [X] PRO-JECT [ ] LOC OTHER:	Y		MAC196181901	5/1/2022	5/1/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 300,000 $ 10,000 $ 1,000,000 $ 4,000,000 $ 4,000,000
A	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY [ ] SCHEDULED AUTOS X HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY			MAC196181901	5/1/2022	5/1/2023	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
B	UMBRELLA LIAB [X] OCCUR X EXCESS LIAB [ ] CLAIMS-MADE DED [X] RETENTION $ 0			EBU068429153	5/1/2022	5/1/2023	EACH OCCURRENCE AGGREGATE	$ 1,000,000 $ 1,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] N / A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		WWC3588795	5/1/2022	5/1/2023	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The City of Cocoa are additional insured as respects the General Liability as required by written contract.

CERTIFICATE HOLDER

Cocoa FL 32922

CANCELLATION

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CITY OF COCOA
MASTER TABULATION SHEET

ITB B-23-15-COC

Cocoa Village Historic Playhouse Elevator Upgrades

Bid Tabulation: February 17, 2023

VENDOR	Base Bid	Alternate
Sapphire Elevator LLC 7073 N. Atlantic Ave Cape Canaveral, FL 32920	$65,233.00	$1,850.00
Eletech Elevator Company 14286 Beach Blvd., Ste 19-270 Jacksonville, FL 32250	$89,890.00	$4,600.00
Skyline Elevator Inc PO Box 850 Groveland, FL 34736	$106,885.00	$9,691.00

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

Attachment "E"
Bid Price Schedule and Acceptance of Terms and Conditions

Each Bidder shall fill out and complete the Bid Schedule form included in this Section and shall submit the appropriate number of copies as part of the Bid. The purpose of the Bid Schedule is to provide a uniform comparison of the bids. This Contract is a **LUMP SUM CONTRACT consisting of two separate project sums. Award of this contract will be based on the Total Lump Sum Price of the Base Bid Items.** The Bidder is to include all costs Bidder may anticipate during the length of this project and the contract. Each Bidder shall include all extras the Bidder may determine necessary to provide the quantity and quality of Work required by the Contract Documents. Fill in the following bid breakdown which will be used to determine bid completeness and understanding, then fill in the Subtotal and Total Lump Sum Bid Prices on the lines provided. The total bid price must be equal to the sum of the values in the bid breakdown. The verified sum of the individual values in the bid breakdown takes precedence over any discrepancy between the Total Lump Sum Bid Price written and the corrected total lump sum bid price.

Item	Item Description	Unit	Total Price
1	Retain 2500 Capacity Car/Cab Enclosure – Replace / refurbish wheels and rollers	LS	$ 4,583.00
2	New in car/cab operating panel with vandalism resistant fixtures. Update Emergency Lighting.	LS	$ 14,250.00
3	New non-proprietary motion control system including logic controller	LS	13,750.00
4	New travel limit switches	LS	1560.00
5	New door and entrance operators.	LS	6800.00
6	New Hall Fixtures using one-inch display with vandalism resistant fixture	LS	11,050.00
7	New hydraulic motor, pump, valves, oil, and muffler	LS	9,500.00
8	New Fire Alarm / Call Phone / Connection to Silent Knight panel	LS	
9	New related wiring as necessary	LS	2,300.00
10	Retain existing pit, refurbish as necessary	LS	750.00
11	Provide 2 as-built sets of drawings including wiring schematics	LS	750.00
Project Total			$ 65,233.00

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8833 | Fax: 321-433-8690	Solicitation Number: ITB B-23-15-COC
	INVITATION TO BID (ITB)	Due Date: 02/17/2023
TITLE: Cocoa Village Historic Playhouse Elevator Upgrades		

ALTERNATE:

Item	Item Description	Unit	Total Price
1	Provide a second set of control boards for future maintenance repair.	LS	$ 1850.00

Bidder/Contractor Name: Sapphire Elevator, LLC

Mailing Address: 7073 N Atlantic Ave Cape Canaveral, FL 32926

Telephone Number: 321-501-2121 E-mail Address: Paul@Sapphireelevator.com

Authorized Signatory

Paul Friedl FEIN: 84-4141376
Printed Name

Operation Manager
Title

2/13/2023
Date

STATE OF Florida COUNTY OF Brevard

The foregoing instrument was executed before me this 16 day of February, 2023, by Paul Friedl as _____ of _____, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced FL DL as identification.

MAUREEN ARENAS
Notary Public - State of Florida
Commission # GG 333860
My Comm. Expires May 13, 2023

NOTARY PUBLIC, State of Florida

PLEASE COMPLETE AND SUBMIT WITH YOUR RESPONSE
☛Failure to submit this form may be grounds for disqualification of your submittal☚

MUNICIPAL LEASE AGREEMENT

THIS MUNICIPAL LEASE AGREEMENT ("Agreement") is entered into this 24th day of March, 2015 ("Effective Date"), by and between the **CITY OF COCOA, FLORIDA**, a municipal corporation ("Landlord"), at 65 Stone Street, Cocoa, Florida 32922, and **THE HISTORIC COCOA VILLAGE PLAYHOUSE, INC.**, a Florida nonprofit corporation ("Tenant"), located at 300 Brevard Avenue, Cocoa, Florida 32922.

WITNESSES:

1. **Premises.** Landlord does demise to Tenant, and Tenant does hire from Landlord, the real property at 300 Brevard Avenue, Cocoa, Florida 32922 ("Playhouse").

2. **Rent.** Tenant shall pay Landlord rent at the annual rate of one ($1.00) dollar, at the address stated in Section 17.

3. **Effective Date; Term and Renewal.** The initial term of this Agreement commences upon the Effective Date and shall remain in effect and run concurrent with the Municipal Services Operating Agreement (Exhibit "A") and any amendments thereto including, but not limited to, the First Amendment to Municipal Services Operating Agreement (Exhibit "B"). It will automatically renew when the Municipal Services Operating Agreement is renewed and terminates when the Municipal Services Operating Agreement is terminated under Section 39.0, Exhibit "A."

4. **Landlord and Tenant's Rights, Duties and Responsibilities.** The Landlord and Tenant's rights, duties and responsibilities are set forth in the Municipal Services Operating Agreement (Exhibit "A") and the First Amendment to Municipal Services Operating Agreement (Exhibit "B"), and may be modified by future written amendments thereto. Any conflict between the terms noted in this Agreement and Exhibits "A" and "B" (including any amendments thereto), the Exhibits will control, except, however, Section 5.0, Exhibit "A" is hereby deleted and substituted with the following: "Service Provider is hereby granted an exclusive lease to use the Playhouse and the theatrical equipment and furniture therein under the terms and conditions set forth in this Agreement. Said Lease shall also be subject to the following additional terms and conditions:".

5. **Uses.** Landlord agrees and Tenant represents and warrants it will use the property for the provision of theatrical performances and events as further described in Section 5 of Exhibit "A."

A. Consistent with Section 5.9, Exhibit "A," nothing in this Agreement may limit or prohibit Landlord's rights to use the Playhouse for Landlord's purposes. Landlord agrees that it will coordinate its use of the Playhouse in such a manner that it does not unreasonably interfere with Tenant's use of the Playhouse.

B. Sale and consumption of alcohol are permitted consistent with applicable law.

6. **Insurance.** During the Term of this Agreement, Tenant shall maintain at its own expense, insurance types and amounts consistent with Section 16.0, Exhibit "A." If Tenant allows for the sale and consumption of alcohol on the premises, it must, consistent with Section 16.4, Exhibit "A," obtain liquor liability insurance to protect against claims involving the sale and/or consumption of alcoholic beverages, in amounts deemed reasonable and acceptable by the City of Cocoa's City Manager. All policies for insurance required under Section 16.0 must name the Landlord and Tenant as insured parties.

7. **Termination.** This Agreement will run concurrent with the Municipal Services Operating Agreement (Exhibit "A") and will automatically terminate when the Municipal Services Operating Agreement terminates.

8. **Assignment or Sublease.** Tenant shall not assign or sublease the Playhouse unless written consent of Landlord is first obtained.

9. **Indemnification.** Tenant agrees to indemnify Landlord, its employees, attorneys, officers and agents to the fullest extent permitted by law from all claims, losses, damages, personal injuries (including death),or liability (including reasonable attorney's fees) as fully noted in Section 40.0, Exhibit "A."

10. **Governing Law & Venue.** This Agreement is governed under Florida laws. Venue for litigation will be Brevard County, Florida. Venue for any federal action will be Orlando, Florida.

11. **Severability.** If any portion of this Agreement is deemed invalid, the parties shall negotiate an equitable adjustment to the affected provision. The validity and enforceability of the remaining parts of this Agreement will be fully enforceable.

12. **Waiver.** No waiver, consent, or modification of any provisions of this Agreement will be binding unless in writing and signed by a duly authorized representative of each party.

13. **Third Party Rights.** Nothing in this Agreement may be construed to give any rights or benefits to anyone other than Landlord and Tenant.

14. **Entire Agreement.** This Agreement, including Exhibits "A" and "B," constitute the entire agreement. Exhibits "A" and "B" shall be deemed fully incorporated herein by this reference. Any future written amendments to Exhibits "A" and "B" shall also be automatically deemed fully incorporated herein by this reference upon full execution of said amendment.

15. **Joint Venture.** Nothing in this Agreement or its attachments are deemed to create a joint-venture or principal-agent relationship between the parties.

16. **Sovereign Immunity.** Nothing in this Agreement will be construed as a waiver of Landlord's right to sovereign immunity under Section 768.28, Florida Statutes.

17. **Notices.** Communication and details concerning this Agreement will be directed to the following contact representatives:

Attn: City Manager City of Cocoa 65 Stone Street Cocoa, Florida 32922 321-433-8680 With copy to: Anthony A. Garganese, City Attorney Brown, Garganese, Weiss & D'Agresta, P.A. P.O. Box 2873 Orlando, Florida 32802-2873 407-425-9566	Attn: Staci Hawkins-Smith (Exec. Dir.) The Historic Cocoa Village Playhouse, Inc. Cocoa Village Playhouse 300 Brevard Avenue Cocoa, Florida 32922 321-591-5007

IN WITNESS WHEREOF, this Agreement is entered into as of the Effective Date noted above.

WITNESS:

Print Name: Susie Wasdin

Print Name: Delores Spearman

The Historic Cocoa Village Playhouse, Inc.

By:

Its: Chairman of the Board
Scott Baughan

ATTEST:

Joan Clark, City Clerk

City of Cocoa

By:

Its: Mayor Henry U. Parrish III



MUNICIPAL SERVICES OPERATING AGREEMENT

THIS AGREEMENT is made and entered into this 10th day of November, 2010, by and between the **CITY OF COCOA, FLORIDA,** a Florida municipal corporation ("City") and **THE HISTORIC COCOA VILLAGE PLAYHOUSE, INC.,** a Florida nonprofit corporation ("Service Provider").

RECITALS:

WHEREAS, the Service Provider is a nonprofit Florida corporation which organizes and presents community oriented theatrical shows and programs which have historically been performed at the Historic Cocoa Village Playhouse located at 300 Brevard Avenue in Cocoa, Florida ("Playhouse"); and

WHEREAS, the City recently received, or will receive, ownership of the Playhouse; and

WHEREAS, the City and Service Provider are desirous of continuing to encourage, support, and facilitate opportunities for the promotion and advancement of community oriented arts and culture for the benefit of the citizens of Cocoa and the community as a whole; and

WHEREAS, the continued operation and maintenance of the Playhouse promotes and enhances existing businesses and the economic development and redevelopment of the historic downtown Cocoa Village area; and

WHEREAS, the continued operation and maintenance of the Playhouse for the benefit of the public is hereby declared by the City to serve a municipal public purpose; and

WHEREAS, immediately prior to the effective date of this Agreement, the Playhouse was owned by Brevard Community College ("College") and the Service Provider was performing its theatrical performances and events at the Playhouse as a direct-support organization of the College pursuant to section 1004.70, Florida Statutes; and

WHEREAS, prior to the effective date of this Agreement, the College, City, and Service Provider were engaged in discussions regarding whether the Service Provider should continue operating as a direct-support organization of the College or alternatively should continue operating independently of the College with some level of limited, direct support by the City in the operation and maintenance of the Playhouse facilities; and

WHEREAS, during those discussions, the College, City, and Service Provider also discussed whether the College should reconvey the Playhouse and the entire contents therein back to the City, along with the annex addition to the Playhouse which was constructed after the City previously conveyed the Playhouse to the College in 1985; and

WHEREAS, based on those discussions, the City and the College entered into that certain Interlocal Agreement, dated June 8, 2010 (Brevard County OR BK 6191, Page 1818)("Interlocal Agreement"), which generally sets forth the terms and conditions under which the College will agree to terminate the Service Provider's direct-support organization status and agree to reconvey the Playhouse and the property therein back to the City; and

WHEREAS, in furtherance of that process set forth in the Interlocal Agreement, the Service Provider and the City commenced negotiations, in good faith, for purposes of entering into a municipal services operating agreement for the future operation of a performing arts theater at the Playhouse; and

WHEREAS, the Service Provider and the City have reached mutually acceptable terms and conditions for said agreement and desire to memorialize them in writing herein; and

WHEREAS, the Service Provider has represented to the City that it desires and shall work to become a self-supporting organization by the end of the term of this Agreement; and

WHEREAS, upon approval of this Agreement, the City also simultaneously agreed to invoke its right under the Interlocal Agreement to accept the reconveyance of the Playhouse and its annex for historical and economic development and redevelopment purposes and under the condition that the Playhouse will remain a performing arts theatre under certain terms and conditions that will be set forth in the reconveyance deed delivered to the City by the College; and

WHEREAS, the parties recognize that this Agreement is necessary to ensure that the Playhouse will continue to serve as a community performing arts theatre and that any Funds expended or granted to Service Provider hereunder by the City ultimately serve the municipal public purposes stated herein; and

WHEREAS, the parties agree that the contractual services provided by the Service Provider hereunder are for the benefit of the public health, safety, welfare, historical and economic prosperity, and convenience of the citizens of the City of Cocoa.

NOW THEREFORE, in consideration of the mutual promises and covenants herein, and other good and valuable consideration which the parties agree has been exchanged and received the parties agree as follows:

1.0 **Recitals.** The foregoing recitals are deemed to be true and accurate and are fully incorporated herein by this reference.

2.0 **Definitions.** For purposes of this Agreement, the following terms and words shall have the meaning ascribed to them, unless the context clearly indicates otherwise:

2.1 "Agreement" or "Contract" shall be used interchangeably and shall refer to this Agreement, as amended from time to time, which shall constitute authorization for the Service Provider to provide the Municipal Services stated herein.

2.2 "City" is the City of Cocoa, Florida, a Florida municipal corporation.

2.3 "Effective Date" shall be the date on which each parties governing board approves this Agreement and the last signatory hereto shall execute this Agreement, and it shall be the date on which this Agreement shall go into effect. The Agreement shall not be effective against any party until said date.

2.4 "Funds" shall mean any discretionary monies paid by the City to the Service Provider in accordance with paragraph 16.0 of this Agreement, if any.

2.5 "Playhouse" shall mean the the Historic Cocoa Village Playhouse located at 300 Brevard Avenue in Cocoa, Florida including the annex building and the real property thereon.

2.6 "Public Record" is as described in Section 119.011(1), *Florida Statutes.*

2.7 "Service Provider" is The Historic Cocoa Village Playhouse, Inc., a Florida nonprofit corporation which has obtained and maintains a 501(c)(3) tax exempt status.

2.8 "Work" or "Municipal Services" shall be used interchangeably and shall refer to all of the Service Provider's responsibilities and obligations outlined in this Agreement.

2.9 "Wrongfully Expended Funds" is generally defined as an improper expenditure by Service Provider of any Funds provided to them by the City as the term is more specifically referenced in paragraph 27.0 of this Agreement.

3.0 **Effective Date; Term and Renewal.** Subject to termination in accordance with paragraph 38.0 of this Agreement, the initial term of this Agreement shall commence upon the Effective Date and expire on the last day of the third annual performance season of the Service Provider under this Agreement. This Agreement may be renewed for up to two (2) additional one year renewal periods upon mutual written agreement of the parties. Either party seeking to renew this Agreement shall provide the other party with at least twelve (12) months notice of its intent to renew the Agreement.

4.0 **Engagement.** The City hereby engages the Service Provider as an independent contractual entertainment company who shall be generally responsible for creating, producing, and performing local, theatrical performances and events at the Playhouse. In furtherance of this responsibility, Service Provider shall be required to create, produce, and perform an annual schedule of multiple local theatrical performances and events to include, but not be limited to, large musical

productions, concerts, presentations, plays, and children's productions. The performances and events shall be selected, created, produced, and performed at the sole artistic discretion and control of the Service Provider, except, however, partial or full nudity and specified sexual activities (as those terms are defined in chs. 2.5 and 2.6, Cocoa City Code) shall be prohibited in performances and events. In addition, the City and Service Provider agree that the responsibilities assigned to Service Provider under this Agreement are not an exhaustive list of responsibilities to successfully conduct the theatrical performances and events at the Playhouse. As such, Service Provider shall be responsible for performing such other responsibilities that it deems necessary in its professional judgment and at its expense to create, produce, and perform successful theatrical performance and events at the Playhouse consistent and not in conflict with the terms and conditions of this Agreement.

5.0 **Use of Playhouse.** Service Provider is hereby granted an exclusive license to use the Playhouse and the theatrical equipment and furniture therein under the terms and conditions set forth in this Agreement. It is expressly agreed to by Service Provider and City that this is not a lease or tenancy agreement and Service Provider shall not acquire or have any leasehold, tenant, or other rights or interests in or to the Playhouse. Said license shall also be subject to the following additional terms and conditions:

5.1 The use shall include the exclusive right to use the Playhouse (including any on-site parking spaces) for scheduled auditions, rehearsals, and actual performances and events which are open to an audience. In addition, Service Provider may exclusively use office space at the Playhouse for the Service Provider's administrative, operational, and marketing needs that are reasonable and necessary to comply with its responsibilities under this Agreement. Further, the Service Provider may use the Playhouse to store, at its own risk, office supplies, furniture and equipment, as well as theatrical wardrobes, stage equipment and lighting, musical instruments, and other theatrical related equipment and material that are necessary to adequately fulfill its responsibilities under this Agreement.

5.2 The Service Provider shall provide and maintain on file with the City an up-to-date written schedule of all ticketed actual performances and events. Unless otherwise approved by the City's City Manager or designee, Service Provider agrees to perform at least seven (7) fee based productions per annual performance season, of which at least three (3) must be primarily for children.

5.3 The City will provide the Service Provider with one or more sets of keys and alarm pass code (if applicable) in order to gain entry to the Playhouse. Service Provider may access the Playhouse at its discretion in order to comply with the terms and conditions of this Agreement. Whenever the Playhouse is not in use and unattended by Service Provider or the City, Service Provider shall be responsible for locking and securing all windows and entrances to the Playhouse. Further, to the extent that there is a property alarm system, Service Provider shall be responsible for activating and deactivating the alarm before closing and leaving the Playhouse unattended. Service

Provider shall keep and provide the City with a current record of all individuals to whom Service Provider has issued keys, and shall immediately notify the City in the event any keys are lost, stolen, or remain in the possession of an individual whose authority to possess a key has been rescinded.

5.4 Service Provider's use of the Playhouse is strictly limited to the engagement and use set forth under this Agreement. On an ancillary basis, the Service Provider may also use the Playhouse for non-political fund raising events on behalf of Service Provider and funerals and small weddings for individuals that have a significant connection with Service Provider's theatrical performances and events such as current and past board members, performers, and major donors. No other engagement and use of the Playhouse is permitted by Service Provider unless the City's City Manager or designee provides prior written consent.

5.5 There must be a duly authorized representative of Service Provider on duty during times when the Playhouse is in use by Service Provider, who shall be responsible for opening/closing and supervising said use.

5.6 Service Provider shall not use the Playhouse in any manner that disrupts the historic nature of the Playhouse through its use or alterations. Service Provider's use shall be subject to any current or future historic preservation regulations and other requirements that are applicable to the Playhouse.

5.7 Service Provider shall not cause or maintain any nuisance in or about the Playhouse, and shall keep the Premises free of debris, rodents, vermin and anything of a dangerous, noxious, or offensive nature or which could create a fire hazard (through undue load on electrical circuits or otherwise) or undue vibration, heat or noise.

5.8 Service Provider shall neither use nor occupy the Playhouse or any part of the Playhouse for any unlawful, disreputable, or ultra-hazardous business purpose nor operate or conduct Service Provider's business in a manner constituting a nuisance of any kind. Service Provider shall immediately, on discovery of any unlawful, disreputable, or ultra-hazardous use, take action to halt such activity.

5.9 Nothing herein shall be construed to limit or prohibit the City's use of the Playhouse for City purposes; except, however, the City agrees that it will coordinate its use of the Playhouse in such a manner that it does not unreasonably interfere with Service Provider's use of the Playhouse pursuant to this Agreement. Further, the City agrees that Service Provider's pre-scheduled auditions, rehearsals, and actual performances and events shall take precedence over any other use of the Playhouse, except when said use must be cancelled by the City or other government authority in the event of emergencies or exigent circumstances affecting the public health, safety, and welfare.

6.0 **Ticketing and Box Office Duties.** For all performances and events conducted by

Service Provider under this Agreement, Service Provider shall administer all box office duties including, but not limited to, scheduling of staff and volunteers, printing and sale of tickets and playbills, establishment of ticket prices (except with respect to the City's optional surcharge under paragraph 9 herein), preparing and reconciling sales receipts and reports, seating customers, and resolving ticketing and seating issues while maintaining the highest level of sales and customer service. All tickets printed must identify the location in substantially the following form: "COCOA VILLAGE PLAYHOUSE." Further, no ticket or ticket marketing material shall state or imply that the City of Cocoa is producing or in any way responsible for the performance or event without the prior written consent of the City's City Manager or City Council.

7.0 **Concession Sales and Merchandise.** The Service Provider may, at its expense, provide a concession operation during public performances and events at the Playhouse under the following terms and conditions:

7.1 Service Provider shall be responsible for the purchase of sufficient inventory of food, beverage, merchandise, memorabilia, novelties, paraphernalia, paper products, utensils and any other items reasonably necessary in furtherance of the concession operation.

7.2 The sale and consumption of alcoholic beverage may only be permitted consistent with applicable law.

7.3 The Service Provider shall be responsible for the management and staffing of the concession operation such as collection and deposit of revenue, set up, break down and clean up of the concession area.

7.4 In the event that concessions cause damage to the Playhouse, Service Provider shall be responsible for the actual cost of needed repairs or professional cleaning required to fix the damage.

7.5 To the extent applicable and required by law, the Service Provider shall obtain all necessary business tax receipts and food and beverage service licenses from the Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants and/or the Florida Department of Alcohol & Tobacco and other applicable agencies to operate the concession operation.. The Service Provider shall be solely responsible for complying with any applicable state laws and regulations related to operating the concession area.

7.6 To the extent that the City is permitted by law to allow the sale of City of Cocoa bottled water, Service Provider agrees to carry and sell said water at the concession operation under sale and price terms and conditions approved by the City including receiving a percentage of any revenues generated from the sale of the water. Further, such water shall be the exclusive bottled water product sold at the concession operation, unless the City is unable to provide an adequate supply of such bottled water.

8.0 **Promoting the Arts to Cocoa Children and Families.** Service Provider agrees to cooperate with the City to create, implement, and maintain a community outreach program for promoting the arts to children and families residing within the City of Cocoa. In furtherance of such a program, Service Provider agrees to set aside on an annual basis twenty-five (25) complimentary tickets for main attraction theatrical productions and ten (10) complimentary tickets for children productions at the Playhouse. The tickets will be distributed to the City at least two weeks in advance of the ticketed performance. The City will then strive to distribute the tickets free of charge to low-to-moderate income children and their families. Nothing herein shall prohibit the Service Provider from distributing other tickets to low-to-moderate income children and families on their own initiative as well. Service Provider also agrees to promote local involvement and participation of Cocoa children and families in appropriate community theatrical performances and events through an outreach program at schools, places of worship, and other public places of assembly. In addition, from time to time and at the City's request, Service Provider shall attend meetings of the City Council in order to make a brief presentation about the Playhouse and Service Provider's responsibilities hereunder.

9.0 **Existing Service Provider $2.00 Ticket Surcharge.** Service Provider acknowledges that they currently impose a $2.00 ticket surcharge on the sale of all tickets for paid performances and events under a previous arrangement with Brevard Community College. During the terms of this Agreement, Service Provider agrees to guarantee that the $2.00 ticket surcharge will be maintained on existing ticket prices for purposes of trying to become self supporting regarding the payment of annual operating and capital expenses related to operating a community performing arts theatre. Service Provider agrees to use the funds collected from the ticket surcharge to pay for Service Provider's annual operating and capital expenses incurred by the Service Provider during the same budget year that the surcharge is collected. The funds collected from the ticket surcharge shall not be used to establish a reserve account or an endowment. In addition, the funds collected shall not be used to reimburse the City for the City's financial obligations under this Agreement including, but not limited to, the capital improvements required in accordance with Paragraph 10.0.

10.0 **Initial 3 year Capital Improvement Plan By City.** The City agrees to design, permit, and construct certain capital improvements to the Playhouse in an amount equal to the debt forgiven by the College related to the Playhouse annex expansion pursuant to section 7.4 of the Interlocal Agreement; provided, however, the total cost of the capital improvement commitment by the City shall not exceed $463,000.00 ("Initial Capital Funds"). Construction of the capital improvements shall commence within three (3) years from the date that the Playhouse and annex are conveyed to the City as evidenced by the date of recording the conveyance deed and shall be completed within five (5) years thereof. Service Provider and City agree that the capital improvements to be constructed in accordance with this paragraph are in order of preference: (i) code compliance renovations; (ii) the orchestra pit expansion/renovation, (iii) upper balcony renovation, and (iv) audience seat replacement (including carpeting). Notwithstanding, the parties acknowledge and agree that the Initial Capital Fund may not be sufficient to complete the aforementioned capital improvements. In which case, the City will only complete a portion of

these capital improvements that can be actually funded by the Initial Capital Funds unless sufficient additional funds are provided by Service Provider or some other funding source other than the City to cover the remaining costs of the capital improvements. However, in the event the City completes these capital improvements and the City has not expended all of the Initial Capital Funds, the City will expend the remainder of the Initial Capital Funds on other capital improvements to the Playhouse that are mutually agreeable to the City and the Service Provider. The completion of the capital improvements by the City will be undertaken with due care to minimize interruption or disruption to Service Provider's operation. Any contract for the performance of the capital improvements shall contain language requiring the contracting party to observe this obligation and shall also include for liquidated damages in favor of the Service Provider in the event that the contracting party's performance or lack thereof causes an actual disruption or interruption to Service Provider's operation. The capital improvement obligations under this Paragraph shall survive the termination, expiration, or non-renewal of this Agreement.

11.0 **Future Capital Improvements.** In addition to the capital improvements required under paragraph 10.0, future capital improvements to the Playhouse shall be made as follows:

11.1 Any additional capital improvements made to the Playhouse by the City shall be conducted at the City's sole discretion. Nothing hereunder shall require the City to construct any capital improvements to the Playhouse except as provided in paragraph 10.0. All future City capital improvements shall be subject to the budget and appropriation approval process of the City's City Council .

11.2 Except as provided under paragraph 10.0, Service Provider shall be responsible for any and all capital improvements to the Playhouse deemed necessary to support theatrical performances and events under this Agreement including, but not limited to, stage lighting and audio, staging, stage curtains and other props permanently affixed to the Property, concession counters and area, ticket booths, internal theatre signage, and other theatrical related equipment and fixtures. However, all capital improvements to be constructed by Service Provider shall require the City's prior written approval before being permitted and constructed. Further, such capital improvements must be performed in a satisfactory manner and shall not weaken or impair the structural strength, or lessen the value, of the Playhouse, or change the purposes for which the Playhouse, or any part of the Playhouse, may be used. In addition, the capital improvements shall not compromise the historic nature of the Playhouse, as determined by the City; and shall comply with the requirements of any governmental authority having jurisdiction including, but not limited to, the State of Florida and the City. All capital improvements must also equal or exceed the then current standard for the Playhouse. Should Service Provider make changes, additions and improvements without complying with the provisions of this section, Service Provider shall be fully liable to the City to restore the Playhouse to the same or better condition that existed prior to the unauthorized changes, additions and improvements. If Service Provider fails to make the restorations within the time prescribed by the City, the City may immediately terminate this Agreement and/or restore the Playhouse at Service Provider's sole expense.

12.0 **Theatrical and Event Supplies.** Service Provider shall be solely responsible for the expenses related to any and all supplies and materials deemed necessary to conduct the theatrical performances and events at the Playhouse under this Agreement including, but not limited to, costumes, make-up, stage paint,

scenic and graphic design, lighting, cabling, rigging, stage scaffolding/catwalks and equipment, stage props, digital scenic elements, stage speakers, microphones and sound systems.

13.0 **Operation and Maintenance of Playhouse.** The operation and maintenance responsibilities and obligations regarding the Playhouse shall be as follows:

13.1 The City shall:

(1) Retain a janitorial service contractor and/or use public works personnel to provide non-routine custodial services to the Playhouse at a service level that the City ordinarily provides for other City owned facilities such as City Hall.

(2) Maintain and repair the foundations, structures, windows, doors, roofs, internal electrical systems, air conditioning (HVAC) and heating systems, and internal plumbing, of the Playhouse in their condition as they exist at the execution of this Agreement, less reasonable wear and tear over the Term of this Agreement, provided that if all or part of the Playhouse is destroyed, substantially damaged or impaired, the City shall, at its discretion, have the right to determine whether the Playhouse should be repaired or not repaired. Nothing herein shall be construed to require that the City rebuild, repair or replace the Playhouse if the Playhouse is destroyed or substantially damaged or impaired. If the City chooses not to repair the Playhouse, Service Provider shall have the option to make the repairs at its sole expense in accordance with the City's standards and applicable law. Said option shall be exercised in writing within thirty (30) days of the City's decision not to repair the Playhouse and said repairs shall be completed within a mutually agreed upon time period.

(3) Be responsible for all electrical, garbage, water and sewer charges, however, the City will not be responsible or liable to Service Provider for any disruptions in service due to no fault of the City.

(4) Maintain adequate pest control services for the Playhouse.

(5) Maintain adequate security and fire protection systems at the Playhouse.

(6) Maintain electric, water, sewer, solid waste, and stormwater utility service, not to exceed $60,000.00 per year unless otherwise agreed in writing by the City. Said utility service account shall be in the name of the Service Provider.

13.2 The Service Provider shall:

(1) Provide sufficient volunteers, employees, contractors and/or paid staff for the operation, maintenance, and event security of the Playhouse and be solely liable for all salary, benefits, and other compensation and remuneration provided to any such volunteers, employees,

contractors and/or paid staff.

(2) Maintain the Playhouse and furnishings in a clean and sanitary manner at all times. Service Provider shall be responsible for day-to-day routine cleaning and maintenance of the Playhouse and furnishings that are not covered by the City's janitorial services contract or public works. Such day-to-day routine cleaning and maintenance shall include, but not be limited to, taking trash to the assigned dumpster, picking up and properly disposing of litter in and around the Playhouse, and spot cleaning of floors, mirrors, restrooms, bathrooms, breakrooms, dressing rooms, counters, stages, offices, and other facilities.

(3) Except to the extent that the City is specifically responsible under paragraph 13.1 of this Agreement, Service Provider shall maintain the Playhouse and all improvements and furniture therein in their condition, as they exist at the execution of this Agreement, less reasonable wear and tear, at Service Provider's sole cost and expense.

(4) Maintain all aisles and exits free and clear of all obstructions at all times.

(5) Install and maintain all stage equipment, materials, and supplies used in any and all of Service Provider's performances and events.

(6) Maintain in good working order and condition all property owned, leased, or borrowed by Service Provider.

(7) Except to the extent that the City is specifically responsible under paragraph 13.1 of this Agreement, Service Provider shall be responsible for all cable/satellite, telephone and communication services at the Playhouse.

14.0 **City of Cocoa Support Services.** Upon written request by Service Provider, the City may, at its sole discretion, provide the following administrative and operational support services to the Service Provider at the Playhouse:

14.1 Assist the Service Provider in basic human resource activities including employment advertisements, recruiting, and related non-proprietary or non-confidential human resource information sharing; except, however, under no circumstances shall the City take part in or be responsible or liable for the employee or volunteer hiring, disciplinary, and firing decisions of Service Provider. Such decisions shall fall within the sole purview of the Service Provider.

14.2 Assist the Service Provider with the purchasing of goods and materials including bid advertisements and awards and related non-proprietary or non-confidential purchasing information sharing; except, however, under no circumstances shall the City be responsible or liable for the payment of such goods and services.

14.3 Assist the Service Provider with general promotional activities through the City Manager's office for theatrical performances and events at the Playhouse.

14.4 Assist the Service Provider with general accounting and book keeping services, auditing, and payroll processing services; provided, however, said services shall be subject to procedures that are deemed acceptable to the City and its financial auditors.

14.5 Assist the Service Provider with general information technology (IT) support services.

15.0 **City Economic Development Objectives.** Service Provider acknowledges and agrees that having a successful community theatre at the Playhouse serves an important economic development objective for the Cocoa downtown. Therefore, the Service Provider agrees to permit the City to participate in the Playhouse's general marketing campaign in order to allow the City to promote the City's overall downtown economic development interests. Said participation shall be coordinated between the City's City Manager and the delegated representative of the Service Provider. The City will annually contribute $ 10,000.00 towards the Playhouse's annual general marketing campaign provided the City's promotional objectives are implemented in conjunction with the Service Provider's general marketing campaign.

16.0 **Insurance.** During the Term of this Agreement, Service Provider shall maintain at its own expense:

16.1 Flood insurance, fire insurance with extended coverage, windstorm insurance, and water damage insurance in amounts sufficient to fully cover Service Provider's alterations and all property in the Playhouse which is not owned by the City;

16.2 Commercial General Liability or Business Owners' Liability insurance against claims for death, personal injury and property damage in or about the Playhouse, in amounts which are from time to time acceptable to a prudent tenant or licensee in the community in which the Playhouse is located, but not less than One Million Dollars ($1,000,000.00) combined single limit, in respect of each occurrence, and not less than Two Million Dollars ($2,000,000.00) in the aggregate; and

16.3 Worker's Compensation insurance against claims for employee, volunteer, and other covered individual personal injuries in or about the Playhouse in accordance with the limits required by law.

16.4 Liquor liability insurance against claims involving the sale and/or consumption of alcoholic beverages at the Playhouse during Service Provider's performances and events, if applicable, in amounts deemed reasonable and acceptable to the City's City Manager.

All policies for insurance required pursuant to Paragraph 16.0 shall name the City and Service Provider as the insureds as their respective interests may appear, shall be in a form and with an insurer

reasonably acceptable to the City, shall require at least fifteen (15) days written notice to the City of termination or material alteration during the Term, and shall waive, to the extent available, any right of subrogation against the City. If requested by the City, Service Provider shall from time to time promptly deliver to the City a current certificate of insurance or other evidence of such policies, and evidence satisfactory to the City that all premiums thereon have been paid and the policies are in full force and effect. If the Service Provider fails to comply with the requirements hereof, as to insurance coverage, the City may obtain such insurance and keep the same in effect, and Service Provider shall pay the City therefore upon demand; and if not paid as required, the City shall have the right to recover the amount owned, together with interest at the maximum rate allowable under Florida law per annum. Moreover, in the event such insurance is paid for by the City because Service Provider has pending performances and events with tickets available to the public or prepaid at the time the City pays for the insurance, the City shall hereby have a lien on the sale receipts generated by any and all ticket sales until the amount owed for insurance is fully repaid to the City. In such case, the sale receipts shall be paid to the City until repayment is made. Except, however, during the initial term of this Agreement, the City agrees in order to protect itself and officers, employees, and attorneys from any liability to reimburse the Service Provider the actual costs incurred for the insurance required by Paragraphs 16.1 and 16.2 of this Agreement provided the insurance certificates issued name the City as an additional named insured and otherwise satisfy the remaining requirements of this Paragraph.

17.0 **Discretionary Monetary Contributions by City.** The City may, at its sole discretion, make future monetary contributions to the Service Provider to cover certain defined operational expenses incurred or to be incurred by Service Provider in furtherance of its responsibilities under this Agreement. However, if Service Provider requests that the City make a monetary contribution that is in addition to the City's monetary contribution required by this Agreement to fund any portion of Service Provider's operating and/or capital needs set forth in its annual budget, the City reserves the right, at its discretion, to impose a ticket surcharge on the sale of any and all tickets (per person) for any paid performance or event performed by Service Provider at the Playhouse. The surcharge shall not exceed more than three ($3.00) dollars per ticket and shall be subject to the Service Provider's board of directors prior approval before being implemented. Said approval shall not be unreasonably withheld or delayed. Further, said City ticket surcharge shall be in addition to the Service Provider's guaranteed ticket surcharge pursuant to Paragraph 9.0 of this Agreement. Any surcharge approved pursuant to this Paragraph shall be implemented prospectively prior to the publishing of tickets for any particular performance or event. Service Provider shall be responsible for preparing and reconciling sales receipts related to the City's surcharge and shall be liable to fully account, in writing, for all surcharges required to be collected by Service Provider on the City's behalf. The City ticket surcharge funds collected by Service Provider shall be reimbursed to the City on a quarterly basis. Upon the City receiving full reimbursement of the monetary contribution requested by, and paid to, Service Provider, the City ticket surcharge shall automatically expire. If the City decides to make any discretionary monetary contribution pursuant to this Paragraph, whether voluntary or at the request of Service Provider, any monetary contribution made by the City to Service Provider shall be subject to any terms and conditions imposed by the City at the time the contribution is agreed to by the City and the terms and conditions of this Agreement. Any breach or default of said terms and conditions by Service Provider shall be subject to the remedies afforded the City pursuant to this Agreement.

18.0 **Professionalism and Standard of Care.** The Service Provider shall do, perform and carry out in a professional manner all Municipal Services required to be performed by this Agreement. Service Provider shall also use the degree of care and skill in performing the Municipal Services that are ordinarily exercised under similar circumstances by reputable members of Service Provider's profession working in the same or similar locality as Service Provider.

19.0 **Submittal of Progress Reports.** Service Provider shall submit upon request of the City a written progress report as to the status of all Municipal Services set forth in this Agreement and to the success of the performances, events, and programs provided hereunder this Agreement. The report shall also demonstrate that any Funds provided by the City, if any, were expended in accordance with the terms and conditions of this Agreement. If the detail is not sufficient in the City Manager's reasonable discretion to permit the City to determine whether or not the Service Provider is in compliance with this Agreement, the City may seek more detail from the Service Provider, which Service Provider agrees to promptly provide to the City.

20.0 **Warranty of Professional Services.** The Service Provider (for itself and any of its employees, contractors, volunteers, paid staff, partners, and agents used to perform the Municipal Services) hereby warrants unto the City that all of its employees (and those of any of its contractors, partners, volunteers, paid staff, and agents used to perform the Municipal Services) have sufficient experience or training to properly complete the Municipal Services specified herein or as may be performed pursuant to this Agreement. In pursuit of any Municipal Services, the Service Provider shall supervise and direct the Municipal Services, using its best skill and attention and shall enforce strict discipline and good order among its employees, contractors, partners, volunteers, paid staff, and agents. The Service Provider shall comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority hearing on the performance of the Municipal Services.

21.0 **Work is a Private Undertaking.** With regard to any and all Work performed hereunder, it is specifically understood and agreed to by and between the parties hereto that the contractual relationship between the City and Service Provider is such that the Service Provider is an independent contractor and not an agent of the City. The Service Provider, its contractors, partners, volunteers, paid staff, agents, and their employees are independent contractors and not employees of the City. Nothing in this Agreement shall be interpreted to establish any relationship other than that of an independent contractor, between the City, on one hand, and the Service Provider, its contractors, partners, volunteers, paid staff, employees, or agents, during or after the performance of the Work under this Agreement. Moreover, any volunteers used by Service Provider in furtherance of this Agreement shall be considered Service Provider's volunteers and not volunteers of the City.

22.0 **Compliance Monitoring.** Service Provider agrees that City control and monitoring of Service Provider's compliance with this Agreement is necessary to insure that Service Provider is adequately performing and expending any Funds provided by the City in furtherance of the public purposes declared by the City in this Agreement, and is using the Playhouse for the municipal public purposes stated herein.

23.0 **Public Records.** Service Provider agrees that all documents, transactions, writings, papers, letters, tapes, photographs, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to this Agreement or in connection with any Funds provided by the City pursuant to this Agreement may be considered public records pursuant to Chapter 119, *Florida Statutes*. Service Provider shall provide a copy of any public records to the City upon request. All public records shall be retained for a period of three (3) years after the termination of this Agreement, or after resolution of all on-going state or local audits, whichever occurs later.

24.0 **Compliance Audit and Inspections.** All Service Provider's records with respect to any matters covered by this Agreement shall be made available to the City, at any time during normal business hours, as often as the City deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data in order to determine Service Provider's compliance with the terms and conditions of this Agreement. Any deficiencies noted in audit reports must be fully cleared by the Service Provider within thirty (30) days after receipt by the Service Provider. Failure of the Service Provider to comply with the above audit requirements will constitute a material breach of this Agreement and may result, at the sole discretion of the City, in the termination of this Agreement and/or the withholding of any future Funds or immediate return to the City of any Funds provided by this Agreement.

25.0 **Civil Rights.** The Service Provider agrees to comply with any and all federal, state and local civil rights laws, including, but not limited to Title VI of the Civil Rights Act of 1964 as amended; Title VII of Civil Rights Act of 1968 as amended; Section 109 of Title I of the Housing and Community Development Act of 1974; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990 as amended; the Age and Discrimination Act of 1975; Executive Order 11063; and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

26.0 **Nondiscrimination.** The Service Provider will not discriminate against any employee, applicant for employment, customer, performer, paid staff, or volunteer because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital status, or status with regard to providing Municipal Services under this Agreement. The Service Provider will take affirmative action to insure that all employment practices and assistance to employees, customers, performers, paid staff, and volunteers are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training and performances including any apprenticeships. The Service Provider agrees to post in conspicuous places, available to employees, applicants for employment or volunteer services or performances, notices to be provided by the Service Provider setting forth the provisions of this nondiscrimination clause.

27.0 **Representation and Warranties.** Service Provider represents and warrants that it shall use its best professional efforts to create, produce, and perform local, community oriented theatrical performances and events at the Playhouse. Service Provider further represents and warrants that any Funds received from the City under this Agreement shall be used for the sole purpose of performing its responsibilities under this Agreement. In the event Service Provider fails to expend any such Funds for said purpose ("Wrongfully

Expended Funds"), Service Provider shall fully reimburse the City the Wrongfully Expended Funds plus interest calculated at maximum rate allowable under Florida law per annum. If the City must take any legal action to collect any Wrongfully Expended Funds, the Service Provider shall be liable for all costs incurred by the City to collect such Funds including, but not limited to, reasonable attorneys fees, filing fees, and other costs. Moreover, the City shall hereby have a lien on the sale receipts generated by any and all ticket sales until the amount required to be reimbursed is fully repaid to the City. In such case, the sale receipts shall be paid to the City until repayment is made.

28.0 **Severability.** Should any paragraph or any part of any paragraph of this Agreement be rendered void, invalid, or unenforceable by any court of law, for any reason, such a determination shall not render void, invalid, or unenforceable any other paragraph or any part of any paragraph in this Agreement.

28.0 **Choice of Law; Venue.** This Agreement has been made and entered into in the State of Florida, County of Brevard, and the laws of such state shall govern the validity and interpretation of this Agreement and the performance due hereunder. The parties agree that venue shall be exclusively in Brevard County, Florida, for all state court actions or disputes which arise out of or based upon this Agreement, and in Orlando, Florida for all federal court actions or disputes which arise out of or are based upon this Agreement.

30.0 **Integration; Modification.** The drafting, execution, and delivery of this Agreement by the Parties has been induced by no representations, statements, warranties, or agreements other than those expressed herein. This Agreement embodies the entire understanding of the parties, and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof unless expressly referred to herein. Modifications of this Agreement shall only be made in writing signed by both parties.

31.0 **Attorney's Fees.** Except as provided in paragraph 27.0 for Wrongfully Expended Funds or as otherwise provided by law, should either party bring an action to enforce any of the terms of this Agreement, each party shall bear its own costs and expenses of such action including, but not limited to, reasonable attorney's fees, whether at settlement, trial or on appeal.

32.0 **Headings.** All headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

33.0 **Waiver.** Any waiver by City of any breach or violation of Service Provider's responsibilities and obligations under this Agreement shall not be construed as a continuing waiver or consent to any subsequent breach or violation.

34.0 **Corporate and Endowment Representations.** Service Provider makes the following representations to City:

34.1 Service Provider is duly organized and in good standing under the laws of the State of

Florida, and is duly qualified and authorized to carry on the functions, responsibilities, and obligations in this Agreement.

34.2 The undersigned signatory for Service Provider has the power, authority, and the legal right to enter into and perform the obligations set forth in this Agreement and all applicable exhibits thereto, and the execution, delivery, and performance hereof by Service Provider has been duly authorized by the board of directors and/or president of Service Provider. In support of said representation, Service Provider agrees to provide a copy to the City of a corporate certificate of good standing provided by the State of Florida prior to the execution of this Agreement.

34.3 Service Provider desires to be a self-supporting organization that is capable of funding its own budget through revenues generated from ticket sales and fund raising activities. Service Provider represents that upon the effective date of this Agreement that it will establishment an endowment program for purposes of funding the future operation of Service Provider's community theatre at the Playhouse. Service Provider agrees to provide the City with a written annual report on the status and success of the endowment program.

35.0 **No Joint Venture.** No provision contained herein shall be construed as creating a joint venture between the parties.

36.0 **City's Right of Inspection.** Upon reasonable notice, the City is hereby granted the right to inspect Service Provider's property located in the Playhouse and used to perform the Municipal Services hereunder for purposes of determining Service Provider's compliance with this Agreement. Service Provider hereby agrees to fully cooperate with the City in permitting the City to conduct said inspections. This paragraph shall not be construed to limit, impede, or prohibit the City's right to inspect the Playhouse at any time, with or without notice to Service Provider.

37.0 **Notices.** Communication and details concerning this Agreement shall be directed to the following contact representatives:

Attn: City Manager City of Cocoa 65 Stone Street Cocoa, Florida 32922 321-433-8680 with copy to Anthony A. Garganese, City Attorney Brown, Garganese, Weiss & D'Agresta, P.A. P.O. Box 2873 Orlando, Florida 32802-2873 407-425-9566	Attn: Staci Hawkins-Smith (Exec.Dir) The Historic Cocoa Village Playhouse, Inc. Cocoa Village Playhouse 300 Brevard Avenue Cocoa, Florida 32922 (321) 591-5007

The foregoing addresses and representatives may be amended by any party at any time during the term of this Agreement by providing the other party written notice of said amendment.

38.0 **Time of Performance and Expenditure of Funds.** Time is of the essence under this Agreement. Municipal Services provided by the Service Provider shall begin immediately upon execution of this Agreement. If Service Provider has failed to expend any Funds appropriated within a given year, the City, at its sole discretion, may require Service Provider to immediately return to the City any and all Funds not properly expended or extend the time period to expend the Funds.

39.0 **Termination of Agreement by Party; Expiration of Term of Agreement.**

39.1 Either party may terminate this Agreement for convenience by providing the other party with at least nine (9) months written notice; except, however, that in the event Service Provider has scheduled ticketed performances and events prior to termination, the termination shall not become effective until the last prior scheduled ticketed performance or events has taken place .

39.2 Either party may terminate this Agreement for cause by providing the other party with at least thirty (30) days written notice. The written notice prepared by the non-defaulting party shall state the specific grounds for said termination and afford the defaulting party at least thirty (30) days to cure the default. If the defaulting party fails to cure the default to the reasonable satisfaction of the non-defaulting party on or before the cure deadline, this Agreement shall be deemed immediately terminated upon expiration of the cure deadline without further action of the parties. For purposes of this Agreement, "for cause" shall mean that a party has failed to comply with or perform a material agreement or material obligation required by this Agreement or Service Provider is dissolved or discontinues functioning as a corporate entity, Service Provider declares bankruptcy and is unable to reorganize under the Bankruptcy Code. If this Agreement is terminated for cause, the parties can elect any remedy provided under this Agreement and by law.

39.3 In the event that City (i) terminates this Agreement with the Service Provider for convenience, or (ii) elects, at its discretion, not to annually budget and appropriate the required funding (in-kind or cash contributions) to assist with the operation and maintenance of the Playhouse in accordance with this Agreement, Service Provider shall have the option to purchase the Playhouse and the entire contents therein from the City for $ 1.00 under the condition that the Service Provider shall continue to operate and maintain the Playhouse as a performing arts theater. Said option shall be exercised by the Service Provider in writing within one hundred twenty (120) calendar days of the effective date of the termination of this Agreement by the City or City's failure to annually budget and appropriate the required funding, whichever shall occur first, and if not so exercised, the option shall irrevocably and forever expire and no longer be in effect. However, if the option is timely exercised by the Service Provider, the deed conveying the Playhouse to the Service Provider shall contain an automatic reversionary interest in favor of the City if the Service Provider either: (i) fails to adequately operate and maintain the Playhouse as a performing arts theater; (ii) is dissolved or discontinues functioning as a corporate entity; (iii) declares bankruptcy or is adjudicated bankrupt, or (iv) attempts to divest itself of the Playhouse or otherwise transfer control of the Playhouse to a third party without the prior written consent of the City.

39.4 In the event that the term of this Agreement expires and is not renewed, the City agrees that Service Provider shall have the irrevocable option to lease the Playhouse and the entire contents therein for $1.00 per year (Non-refundable and payable in advance for the entire term of the lease). The irrevocable option shall be exercised by Service Provider in writing no later than the thirty (30) days before the expiration of the term of this Agreement or any renewal thereof; otherwise, the irrevocable option shall automatically terminate. The right to exercise the irrevocable option is contingent, however, on Service Provider not being in material default of this Agreement and Service Provider agreeing in the lease to continue to perform at the Playhouse at least seven (7) fee based productions per annual performance season, of which at least three (3) must be primarily for children. The terms and conditions of the lease agreement shall be in writing and expeditiously negotiated in good faith in a form that is generally accepted for commercial businesses leasing a building in the market and subject to the City's right to sovereign immunity under Florida law. The lease will not be subject to termination for convenience. However, the lease shall contain a provision that the City may terminate the lease for cause under any of the following conditions: (i) Service Provider failed to timely cure a material default under the lease; (ii) Service Provider failed to perform at the Playhouse at least seven (7) fee based productions per annual performance season, of which at least three (3) must be primarily for children; (iii) Service Provider is dissolved or discontinues functioning as a corporate entity; (iv) Service Provider declares bankruptcy and is unable to reorganize under the Bankruptcy Code or is adjudicated bankrupt; and (v) Service Provider failed to adequately operate and maintain the Playhouse as a performing arts theater as required by the deed of conveyance between the Brevard Community College and the City. In the event that the Service Provider and the City can not agree on the terms and conditions of a generally accepted commercial business lease for a building, the parties agree to retain a certified mediator to assist them in finalizing the terms and conditions of the lease. Said mediator shall be a mutually acceptable attorney who is licensed to practice law in the State of Florida and who shall be experienced in preparing commercial business leases for buildings. Nothing in this Paragraph shall be construed as requiring the City to continue to provide Service Provider under the lease any of the discretionary or required in-kind services or monetary contributions set forth in this Agreement.

40.0 **Indemnification and Hold Harmless.** For all Work performed pursuant to this Agreement, the Service Provider agrees to the fullest extent permitted by law, to indemnify and hold harmless the City, its employees, attorneys and officers, from and against all claims, losses, damages, personal injuries (including but not limited to death), or liability (including reasonable attorney's fees), directly or indirectly arising from, or out of the following: (a) the acts, errors, omissions, intentional or otherwise, arising out of or resulting from Service Provider's and its employees, partners, contractors, volunteers, paid staff, and agents performance of the Work being performed under this Agreement; (b) Service Provider's, and its employees, partners, contractors, volunteers, paid staff, and agents failure to comply with the provisions of any federal, state, or local laws, ordinance, or regulations applicable to Service Provider's and its employees, partners, contractors, volunteers, paid staff, and agents performance under this Agreement; (c) any fraud and misrepresentation conducted by Service Provider and its employees, partners, contractors, volunteers, paid staff, and agents in obtaining any Funds provided under this Agreement; (d) Service Provider's and its employees, partners, contractors, volunteers, paid staff, and agents failure to properly expend any Funds provided by the City pursuant to this Agreement; and (e) claims for compensation and for tort liability for injuries and losses suffered by Service Provider's employees, partners, contractors, volunteers, paid staff, and agents arising out of or related to Service Provider's operation and maintenance of the Playhouse or service provided by such

employees, partners, contractors, volunteers, paid staff, and agents.

The indemnification provided above shall obligate the Service Provider to defend at its own expense or to provide for such defense, at the option of the City, of any and all claims of liability and all suits and actions of every name and description that may be brought against the City or its employees, attorneys, and officers which may result from the Work performed under this Agreement whether the Work is performed by the Service Providers, its employees, contractors, partners, volunteers, paid staff, and agents or anyone directly or indirectly employed by the Service Provider. In all event the City shall be permitted to choose legal counsel of its sole choice, the fees for which shall be reasonable and subject to and included with the indemnification provided herein. This paragraph shall survive termination of this Agreement with respect to any and all claims (including, but not limited to claims for indemnity) that have been or can be brought regarding Service Provider's performance under this Agreement.

41.0 **Assignment.** This Agreement shall not be assigned by Service Provider without the prior written consent of the City. In addition, Service Provider shall not sub-license this Agreement to any other person or entity without the prior written consent of the City.

42.0 **Bankruptcy.** The Service Provider hereby warrants and guarantees unto the City that it has not filed for bankruptcy or is subject to appointment of a receiver as of the Effective Date hereof. If Service Provider has filed for or files for bankruptcy, should be adjudged bankrupt, is subject to appointment of a receiver, or makes a general assignment for the benefit of creditors, the City, upon not less than three (3) days written notice to the Service Provider, without prejudice to other remedies or rights that the City may have, may terminate this Agreement and require immediate repayment of any Funds provided by the City hereunder and not expended by Service Provider pursuant to this Agreement or Wrongfully Expended Funds.

43.0 **No Future City Obligations.** No provision in this Agreement shall be construed as requiring the City to provide any funds, services, capital contributions, or any other monetary or in-kind contributions whatsoever other than as specifically provided herein.

44.0 **Limitations on City's Financial Obligations:** Nothing in this Agreement constitutes or shall constitute a pledge of ad valorem real property taxes by the City. In addition, any monetary payments required by the City under this Agreement shall be made only from the City's available revenues appropriated for such purpose, and the City shall not be obligated to pay any sums due from sources other than appropriated available revenues. The full faith and credit of the City is not pledged for payment of any sums due hereunder, and the obligations arising hereunder shall not constitute an indebtedness of the City within the meaning of any constitutional, statutory, or charter provision or limitation.

45.0 **Service Provider Not to Allow Lien or Encumbrances.** Service Provider shall not permit to be created nor to remain undischarged any lien, encumbrance, or charge arising out of any work of any contractor, mechanic, laborer, or materialman which might be or become a lien or encumbrance or charge upon the Playhouse. If any lien or notice of lien on the account of any debt of the Service Provider shall be filed against the Playhouse, and Service Provider fails to discharge the lien or notice of lien within twenty (20)

days of filing, the City, in addition to any other legal rights or remedies, may, but shall not be obligated to, discharge the same by either paying the amounts claimed to be due, or shall be entitled to defend any prosecution of an action for foreclosure of such lien. Any amount paid by the City and all costs and expenses (including reasonable attorneys' fees and interest) incurred by the City in connection therewith shall be paid by the Service Provider.

46.0 **Sovereign Immunity.** Notwithstanding any other provision set forth in this Agreement, nothing contained in this Agreement shall be construed as a waiver of the City's right to sovereign immunity under section 768.28, Florida Statutes, or other limitations imposed on the Landlord's potential liability under state or federal law. As such, the City shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, the City shall not be liable for any claim or judgment, or portion thereof, to any one person for more than one hundred thousand dollars ($100,000.00), or any claim or judgment, or portion thereof, which, when totaled with all other claims or judgments paid by the State or its agencies and subdivisions arising out of the same incident or occurrence, exceeds the sum of two hundred thousand dollars ($200,000.00). This paragraph shall survive termination of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement is entered into as of the day and year the last party signs this Agreement as stated below.

WITNESS:

Print Name: Anastacia Hawkins Smith

Print Name: BENJAMIN L. COX

The Historic Cocoa Village Playhouse, Inc.

By: For Robert Wetzel
By Dewey L. Harris

Its: President Robert Wetzel
Vice President Dewey L. Harris

Date: 11-15-10

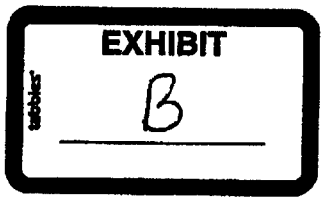
ATTEST:

Joan Clark, City Clerk

CITY OF COCOA:

By: Michael C. Blake, Mayor

Date: 11/10/2010



FIRST AMENDMENT TO MUNICIPAL SERVICES OPERATING AGREEMENT

THIS FIRST AMENDMENT is made and entered into this 11 day of March, 2014 ("First Amendment Effective Date"), by and between the **CITY OF COCOA, FLORIDA,** a Florida municipal corporation ("City") and **THE HISTORIC COCOA VILLAGE PLAYHOUSE, INC.,** a Florida nonprofit corporation ("Service Provider").

RECITALS:

WHEREAS, the City and Service Provider previously entered into that certain Municipal Services Operating Agreement, dated November 10, 2010 ("Agreement") for purposes of operating and maintaining the Historic Cocoa Village Playhouse located at 300 Brevard Avenue in Cocoa, Florida ("Playhouse"); and

WHEREAS, during the initial term of the Agreement, Service Provider has successfully operated and maintained the Playhouse in accordance with the terms and conditions of the Agreement and has successfully performed numerous theatrical performances and events that have benefitted the public health, safety, welfare, historical and economic prosperity, and convenience of the citizens of the City of Cocoa and the community at-large; and

WHEREAS, the parties now desire to extend the term of the Agreement and make other amendments thereto for the benefit of each party and the citizens of Cocoa and the community at-large; and

NOW THEREFORE, in consideration of the mutual promises and covenants herein, and other good and valuable consideration which the parties agree has been exchanged and received the parties agree as follows:

1.0 **Recitals.** The foregoing recitals are deemed to be true and accurate and are fully incorporated herein by this reference.

2.0 **Definitions.** For purposes of this First Amendment, the terms and words set forth in the Agreement shall have same meaning when used herein, unless the context clearly indicates otherwise.

3.0 **Effective Date; Term and Renewal.** Section 3.0 in the Agreement is hereby amended in its entirety to read as follows:

The Agreement shall remain in effect unless terminated by mutual agreement of the parties or either party terminates the Agreement pursuant to paragraph ~~38.0~~ 39 herein.

4.0 **Compliance with Initial 3 Year Capital Improvement Plan.** The parties acknowledge and agree that the City has fully complied with and satisfied the initial capital improvement plan requirements set forth in Paragraph 10.0 of the Agreement and that the City has no further obligation under said Paragraph.

5.0 **Amendments to Paragraph 13.0 Operation and Maintenance of Playhouse.** Paragraph 13.0 of the Agreement is hereby amended as follows (underlined type are additions and ~~strikeout~~ type are deletions):

(1) Section 13.1(1) is amended to read as follows:

> To the extent necessary and agreed to by the parties by written memorandum, retain a janitorial service contractor and/or use public works personnel to provide non-routine custodial services to the Playhouse at a service level that the City ordinarily provides for other City owned facilities such as City Hall.

(2) Section 13.1(6) is amended to read as follows:

> Maintain electric, water, sewer, solid waste, and stormwater utility service~~, not to exceed $60,000.00 per year unless otherwise agreed in writing by the City~~. Said utility service account shall be in the name of the Service Provider.

(3) The City's financial obligation for providing the operation and maintenance services set forth in Paragraphs 13.1(1), (3), (4), (5) and (6) shall be capped on annual City fiscal year basis at an amount not to exceed $70,000 per year. On October 1 of each City fiscal year, the aforementioned cap shall be subject to an adjustment based on the most current Consumer Price Index for the South East Region. Any amounts owed in excess of this annual cap shall be the sole responsibility of the Service Provider.

6.0 **Amendments to Paragraph 15.0 City Economic Development Objective.** Paragraph 15.0 of the Agreement is hereby amended as follows:

> Service Provider acknowledges and agrees that having a successful community theatre at the Playhouse serves an important economic development objective for the Cocoa downtown. Therefore, the Service Provider agrees to permit the City to participate in the Playhouse's general marketing campaign by allowing the City ~~in order to allow the City~~ to promote the Playhouse in conjunction with the City's overall downtown economic development interests. Said participation shall be coordinated between the City's City Manager and the delegated representative of the Service Provider. ~~The City will annually contribute $ 10,000.00 towards the~~

~~Playhouse's annual general marketing campaign provided the City's promotional objectives are implemented in conjunction with the Service Provider's general marketing campaign.~~

7.0 **Amendments to Paragraph 23.0 Public Records.** Paragraph 23.0 of the Agreement is hereby amended as follows (underlined type are additions and ~~strikeout~~ type are deletions):

In accordance with section 119.0701, *Florida Statutes*, Service Provider agrees that all documents, transactions, writings, papers, letters, tapes, photographs, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to this Agreement or in connection with any Funds provided by the City pursuant to this Agreement may be considered public records pursuant to Chapter 119, *Florida Statutes*. Service Provider agrees to keep and maintain any and all public records that ordinarily and necessarily would be required by the City in order to perform the services required by this Agreement. Service Provider also agrees to provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided by Chapter 119, *Florida Statutes* or as otherwise provided by law. Service Provider shall also ensure that public records that are exempt for confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law. In addition, Service Provider shall meet all requirements for retaining public records and transfer, at no cost, to the City all public records in possession of the Service Provider upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City. If Service Provider does not comply with a public records request, the City shall have the right to enforce the provisions of this Paragraph. In the event that Service Provider fails to comply with the provisions of this Paragraph, and the City is required to enforce the provisions of this Paragraph, or the City suffers a third party award of attorney's fees for violating the provisions of Chapter 119, *Florida Statutes* due to Service Provider's failure to comply with the provisions of this Paragraph, the City shall be entitled to collect from Service Provider prevailing party attorney's fees and costs for enforcing this Paragraph against Service Provider and if applicable, reimbursement of attorney's fees which the City was required to pay a third party because of Service Provider's failure to comply with the provisions of this Paragraph. This Paragraph shall survive the termination of this Agreement. ~~Service Provider shall provide a copy of any public records to the City upon request. All public records shall be retained for a period of three (3) years after the termination of this~~

~~Agreement, or after resolution of all on-going state or local audits, whichever occurs later.~~

In addition, the parties agree that on mutually agreeable time schedule coordinated with the City Clerk's office, the Service Provider may deliver to the City all public records generated or received by Service Provider for the previous calendar year for records retention purposes. Upon delivery of said records to the City, the City will then be responsible for maintaining the records from the date of actual delivery in accordance with the City's general public records policy.

8.0 **Amendment to Paragraph 46.0 Sovereign Immunity.** Paragraph 46.0 of the Agreement is hereby amended as follows (underlined type are additions and ~~strikeout~~ type are deletions):

Notwithstanding any other provision set forth in this Agreement, nothing contained in this Agreement shall be construed as a waiver of the City's right to sovereign immunity under section 768.28, Florida Statutes, or other limitations imposed on the Landlord's potential liability under state or federal law. As such, the City shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, the City shall not be liable for any claim or judgment, or portion thereof, to any one person for more than ~~one~~ two hundred thousand dollars ($~~1~~ 200,000.00), or any claim or judgment, or portion thereof, which, when totaled with all other claims or judgments paid by the State or its agencies and subdivisions arising out of the same incident or occurrence, exceeds the sum of ~~two~~ three hundred thousand dollars ($~~2~~ 300,000.00). This paragraph shall survive termination of this Agreement.

9.0 **Incorporation into the Agreement; Full Force and Effect.** This First Amendment is hereby fully incorporated into the Agreement by this reference. All provisions of the Agreement not amended by this First Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, this Agreement is entered into as of the day and year the last party signs this Agreement as stated below.

WITNESS:

Print Name: Susie Wasdin

Print Name: Scott A. Baughman

The Historic Cocoa Village Playhouse, Inc.

By: x Dewey L. Harris

Dewey Harris, Pres.

Executive Director
2/6/14

Its: President

Date: February 6, 2014

ATTEST:

Joan Clark, City Clerk

CITY OF COCOA:

By: Henry D. Parrish III, Mayor

Date: 3/25/2014

Legislation Details (With Text)

File #:	23-164	**Version:**	1	**Name:**	
Type:	Informational Item			**Status:**	Council Busines
File created:	2/28/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	Council approval to join with the State of Florida and other Local Governmental Units as a Participant in the Walmart Florida Settlement Agreement and Release Formal Agreements Implementing a Unified Plan for the Allocation and Use of Prospective Settlement Dollars from Opioid Related Litigation. (Chief of Police)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Walmart Subdivision Estimates.pdf Walmart_Florida_Settlement_Execution Copy.pdf Walmart Florida Settlement Exhibits.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: February 28, 2023
Agenda Date: March 14, 2023
Prepared By: Susan L. Lambert, CAP, OM
Through: Evander Collier IV, Chief of Police
Requested Action:
Council approval to join with the State of Florida and other Local Governmental Units as a Participant in the Walmart Florida Settlement Agreement and Release Formal Agreements Implementing a Unified Plan for the Allocation and Use of Prospective Settlement Dollars from Opioid Related Litigation

BACKGROUND:

The United States, and indeed, Florida has been in an opioid crisis for some time now. Attorney General Ashley Moody has been leading ongoing opioid litigation with the Pharmaceutical companies for approximately two years now and has been in negotiations with the defendants in the litigations and these have included counsel representing cities and counties throughout the state.

The City of Cocoa previously joined in the settlement agreement with the State of Florida on December 14, 2021 under Resolution 2021-126. We now need to file our intent to participate in the agreement with Walmart in order to obtain Cocoa's estimated portion of $215,000,000 which would be $42,073.12.The Walmart Florida Settlement Exhibits attachment provides the agreement that must be executed with Walmart.

STRATEGIC PLAN CONNECTION:

Public Safety

BUDGETARY IMPACT:

Budgeted	No
If not budgeted, is amendment/transfer attached?	No

Cocoa is allotted an estimated $42,073.12. The Police Department will bring the Budget Adjustment/Resolution back to City Council once the revenue is received and assign the expense budget (uses) at that time. Project number PD22OS has already been established for these funds.

PREVIOUS ACTION:

Council previously approved agenda item 21-783 to enter into the Settlement agreement with the State of Florida.

RECOMMENDED MOTION:

Council approval to join with the State of Florida and other Local Governmental Units as a Participant in the Walmart Florida Settlement Agreement and Release Formal Agreements Implementing a Unified Plan for the Allocation and Use of Prospective Settlement Dollars from Opioid Related Litigation

Settlement Amount $ 187,937,062.10 City/County Fund %
Regional Fund %

County	Principal Subdivisions	Regional % by County for Abatement Fund
Alachua		1.24106016444867%
	Alachua County	
	Alachua	
	Gainesville	
Baker		0.19317380413017%
	Baker County	
Bay		0.83965637331199%
	Bay County	
	Callaway	
	Lynn Haven	
	Panama City	
	Panama City Beach	
Bradford		0.18948420408137%
	Bradford County	
Brevard		3.87879918044396%
	Brevard County	
	Cape Canaveral	
	Cocoa	
	Cocoa Beach	
	Melbourne	
	Palm Bay	
	Rockledge	
	Satellite Beach	
	Titusville	
	West Melbourne	
Broward		9.05796267257777%
	Broward County	
	Coconut Creek	
	Cooper City	
	Coral Springs	
	Dania Beach	
	Davie	
	Deerfield Beach	
	Fort Lauderdale	
	Hallandale Beach	
	Hollywood	
	Lauderdale Lakes	
	Lauderhill	
	Lighthouse Point	
	Margate	
	Miramar	
	North Lauderdale	
	Oakland Park	

	Parkland	
	Pembroke Pines	
	Plantation	
	Pompano Beach	
	Sunrise	
	Tamarac	
	Weston	
	West Park	
	Wilton Manors	
Calhoun		0.04712774078090%
	Calhoun County	
Charlotte		0.73734623337592%
	Charlotte County	
	Punta Gorda	
Citrus		0.96964577660634%
	Citrus County	
Clay		1.19342946145639%
	Clay County	
Collier		1.55133337642709%
	Collier County	
	Marco Island	
	Naples	
Columbia		0.44678115079207%
	Columbia County	
	Lake City	
DeSoto		0.11364040780249%
	DeSoto County	
Dixie		0.10374458089993%
	Dixie County	
Duval		5.43497515693510%
	Jacksonville	
	Atlantic Beach	
	Jacksonville Beach	
Escambia		1.34163444924367%
	Escambia County	
	Pensacola	
Flagler		0.38986471224388%
	Flagler County	
	Palm Coast	
Franklin		0.04991128255001%
	Franklin County	
Gadsden		0.12365607407671%
	Gadsden County	
Gilchrist		0.06433376935497%
	Gilchrist County	
Glades		0.04061283675771%
	Glades County	

Gulf		0.05991423858784%
	Gulf County	
Hamilton		0.04794119590977%
	Hamilton County	
Hardee		0.06711004813185%
	Hardee County	
Hendry		0.14446091529681%
	Hendry County	
Hernando		1.51007594910967%
	Hernando County	
Highlands		0.35718851023682%
	Highlands County	
	Avon Park	
	Sebring	
Hillsborough		8.71098411365711%
	Hillsborough County	
	Plant City	
	Tampa	
	Temple Terrace	
Holmes		0.08161242785125%
	Holmes County	
Indian River		0.75307605878085%
	Indian River County	
	Sebastian	
	Vero Beach	
Jackson		0.15893605879538%
	Jackson County	
Jefferson		0.04082164778410%
	Jefferson County	
Lafayette		0.03191177207568%
	Lafayette County	
Lake		1.13921122451870%
	Lake County	
	Clermont	
	Eustis	
	Fruitland Park	
	Groveland	
	Lady Lake	
	Leesburg	
	Minneola	
	Mount Dora	
	Tavares	
Lee		3.32537188335925%
	Lee County	
	Bonita Springs	
	Cape Coral	
	Estero	

	Fort Myers	
Leon		0.89719924493933%
	Leon County	
	Tallahassee	
Levy		0.25119240174806%
	Levy County	
Liberty		0.01939945222513%
	Liberty County	
Madison		0.06354028745471%
	Madison County	
Manatee		2.72132334623483%
	Manatee County	
	Bradenton	
	Palmetto	
Marion		1.70117616896044%
	Marion County	
	Ocala	
Martin		0.86948729811605%
	Martin County	
	Stuart	
Miami-Dade		5.23211978417292%
	Miami-Dade County	
	Aventura	
	Coral Gables	
	Cutler Bay	
	Doral	
	Florida City	
	Hialeah	
	Hialeah Gardens	
	Homestead	
	Key Biscayne	
	Miami	
	Miami Beach	
	Miami Gardens	
	Miami Lakes	
	Miami Shores	
	Miami Springs	
	North Bay Village	
	North Miami	
	North Miami Beach	
	Opa-locka	
	Palmetto Bay	
	Pinecrest	
	South Miami	
	Sunny Isles Beach	
	Sweetwater	
Monroe		0.47638873858530%

	Monroe County	
	Key West	
Nassau		0.47693346300195%
	Nassau County	
	Fernandina Beach	
Okaloosa		0.81921286595494%
	Okaloosa County	
	Crestview	
	Destin	
	Fort Walton Beach	
	Niceville	
Okeechobee		0.35349527869191%
	Okeechobee County	
Orange		4.67102821454589%
	Orange County	
	Apopka	
	Maitland	
	Ocoee	
	Orlando	
	Winter Garden	
	Winter Park	
Osceola		1.07345209294015%
	Osceola County	
	Kissimmee	
	St. Cloud	
Palm Beach		8.60159437205259%
	Palm Beach County	
	Belle Glade	
	Boca Raton	
	Boynton Beach	
	Delray Beach	
	Greenacres	
	Jupiter	
	Lake Worth	
	Lantana	
	North Palm Beach	
	Palm Beach Gardens	
	Palm Springs	
	Riviera Beach	
	Royal Palm Beach	
	Wellington	
	West Palm Beach	
Pasco		4.69208726049375%
	Pasco County	
	New Port Richey	
	Zephyrhills	
Pinellas		7.93488981677650%

	Pinellas County	
	Clearwater	
	Dunedin	
	Gulfport	
	Largo	
	Oldsmar	
	Pinellas Park	
	Safety Harbor	
	Seminole	
	St. Petersburg	
	Tarpon Springs	
Polk		2.15048302529773%
	Polk County	
	Auburndale	
	Bartow	
	Haines City	
	Lakeland	
	Lake Wales	
	Winter Haven	
Putnam		0.38489319406788%
	Putnam County	
	Palatka	
Santa Rosa		0.70126731951283%
	Santa Rosa County	
	Milton	
Sarasota		2.80504385757853%
	Sarasota County	
	North Port	
	Sarasota	
	Venice	
Seminole		2.14114826454432%
	Seminole County	
	Altamonte Springs	
	Casselberry	
	Lake Mary	
	Longwood	
	Oviedo	
	Sanford	
	Winter Springs	
St. Johns		0.71033334955402%
	St. Johns County	
	St. Augustine	
St. Lucie		1.50662784355224%
	St. Lucie County	
	Fort Pierce	
	Port St. Lucie	
Sumter		0.32639887045945%

	Sumter County	
	Wildwood	
Suwannee		0.19101487969217%
	Suwannee County	
Taylor		0.09218189728241%
	Taylor County	
Union		0.06515630322411%
	Union County	
Volusia		3.13032967447995%
	Volusia County	
	Daytona Beach	
	DeBary	
	DeLand	
	Deltona	
	Edgewater	
	Holly Hill	
	New Smyrna Beach	
	Orange City	
	Ormond Beach	
	Port Orange	
	South Daytona	
Wakulla		0.11512932120801%
	Wakulla County	
Walton		0.26855821615101%
	Walton County	
Washington		0.12012444410873%
	Washington County	

15.000000000000000%	$ 28,190,559.32	$ 75,174,824.84
40.000000000000000%		

City/County Fund % (Principal Subdivisions Only)	City/County Fund Amount	Regional Fund Amount
		$ 932,964.80
0.846347404896564%	**$ 238,590.07**	
0.013113332456932%	**$ 3,696.72**	
0.381597611347118%	**$ 107,574.50**	
		$ 145,218.07
0.193173804130173%	**$ 54,456.78**	
		$ 631,210.21
0.539446037057239%	**$ 152,072.86**	
0.024953825526948%	**$ 7,034.62**	
0.039205632014689%	**$ 11,052.29**	
0.155153855595736%	**$ 43,738.74**	
0.080897023117378%	**$ 22,805.32**	
		$ 142,444.42
0.189484204081366%	**$ 53,416.66**	
		$ 2,915,880.49
2.387076812679440%	**$ 672,930.30**	
0.045560750208993%	**$ 12,843.83**	
0.149245411423089%	**$ 42,073.12**	
0.084363286155357%	**$ 23,782.48**	
0.383104682233196%	**$ 107,999.35**	
0.404817397481049%	**$ 114,120.29**	
0.096603243797586%	**$ 27,232.99**	
0.035975416223927%	**$ 10,141.67**	
0.240056418923581%	**$ 67,673.25**	
0.051997577065795%	**$ 14,658.41**	
		$ 6,809,307.57
4.062623697836280%	**$ 1,145,276.34**	
0.101131719448042%	**$ 28,509.60**	
0.073935445072532%	**$ 20,842.82**	
0.323406517663960%	**$ 91,170.11**	
0.017807041180440%	**$ 5,019.90**	
0.266922227152987%	**$ 75,246.87**	
0.202423224724969%	**$ 57,064.24**	
0.830581264530524%	**$ 234,145.50**	
0.154950491813518%	**$ 43,681.41**	
0.520164608455721%	**$ 146,637.31**	
0.062625150434726%	**$ 17,654.38**	
0.144382838130419%	**$ 40,702.33**	
0.029131861802689%	**$ 8,212.43**	
0.143683775129045%	**$ 40,505.26**	
0.279280208418825%	**$ 78,730.65**	
0.066069624496039%	**$ 18,625.40**	
0.100430840698613%	**$ 28,312.02**	

0.045804060448432%	$ 12,912.42	
0.462832363602822%	$ 130,475.03	
0.213918725664437%	$ 60,304.89	
0.335472163492860%	$ 94,571.48	
0.286071106146452%	$ 80,645.04	
0.134492458472026%	$ 37,914.18	
0.138637811282768%	$ 39,082.77	
0.029553115351569%	$ 8,331.19	
0.031630331127078%	$ 8,916.77	
		$ 35,428.20
0.047127740780902%	$ 13,285.57	
		$ 554,298.74
0.690225755587238%	$ 194,578.50	
0.047120477788680%	$ 13,283.53	
		$ 728,929.51
0.969645776606338%	$ 273,348.57	
		$ 897,158.51
1.193429461456390%	$ 336,434.44	
		$ 1,166,212.15
1.354822227370880%	$ 381,931.96	
0.062094952002516%	$ 17,504.91	
0.134416197053695%	$ 37,892.68	
		$ 335,866.95
0.342123248620213%	$ 96,446.46	
0.104659717919908%	$ 29,504.16	
		$ 85,428.98
0.113640407802487%	$ 32,035.87	
		$ 77,989.81
0.103744580899928%	$ 29,246.18	
		$ 4,085,733.05
5.295636466902910%	$ 1,492,869.54	
0.038891507601085%	$ 10,963.73	
0.100447182431112%	$ 28,316.62	
		$ 1,008,571.35
1.010997622822650%	$ 285,005.88	
0.330636826421023%	$ 93,208.37	
		$ 293,080.11
0.305009358365478%	$ 85,983.84	
0.084857169626457%	$ 23,921.71	
		$ 37,520.72
0.049911282550008%	$ 14,070.27	
		$ 92,958.24
0.123656074076710%	$ 34,859.34	
		$ 48,362.80
0.064333769354966%	$ 18,136.05	
		$ 30,530.63
0.040612836757713%	$ 11,448.99	

		$ 45,040.42
0.059914238587842%	$ 16,890.16	
		$ 36,039.71
0.047941195909773%	$ 13,514.89	
		$ 50,449.86
0.067110048131850%	$ 18,918.70	
		$ 108,598.24
0.144460915296806%	$ 40,724.34	
		$ 1,135,196.95
1.510075949109670%	$ 425,698.86	
		$ 268,515.84
0.293187022776017%	$ 82,651.06	
0.025829016089707%	$ 7,281.34	
0.038172471371100%	$ 10,761.03	
		$ 6,548,467.05
6.523111204400210%	$ 1,838,901.53	
0.104218491142418%	$ 29,379.78	
1.975671881252980%	$ 556,952.95	
0.107980721113446%	$ 30,440.37	
		$ 61,352.00
0.081612427851251%	$ 23,007.00	
		$ 566,123.61
0.654117789755259%	$ 184,399.46	
0.038315915467486%	$ 10,801.47	
0.060642353558104%	$ 17,095.42	
		$ 119,479.90
0.158936058795375%	$ 44,804.96	
		$ 30,687.60
0.040821647784097%	$ 11,507.85	
		$ 23,989.62
0.031911772075683%	$ 8,996.11	
		$ 856,400.04
0.781548804039386%	$ 220,322.98	
0.075909163208877%	$ 21,399.22	
0.041929254097962%	$ 11,820.09	
0.008381493024259%	$ 2,362.79	
0.026154034991644%	$ 7,372.97	
0.025048244425835%	$ 7,061.24	
0.091339390184647%	$ 25,749.08	
0.016058475802978%	$ 4,526.97	
0.041021380070204%	$ 11,564.16	
0.031820984672908%	$ 8,970.51	
		$ 2,499,842.49
2.150386790650790%	$ 606,206.06	
0.017374893143227%	$ 4,898.08	
0.714429677167259%	$ 201,401.72	
0.012080171813344%	$ 3,405.47	

0.431100350584635%	$ 121,529.60	
		$ 674,467.96
0.471201146390692%	$ 132,834.24	
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		$ 188,833.45
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		$ 14,583.50
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		$ 47,766.30
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		$ 1,278,856.21
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		$ 653,635.55
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0.081223857767371%	$ 22,897.46	
		$ 3,933,236.88
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0.008296152865650%	$ 2,338.73	
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		$ 358,124.40

0.388301353168081%	$ 109,464.32	
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		$ 358,533.90
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		$ 533,991.85
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		$ 86,548.27
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		$ 201,888.17
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		$ 90,303.34
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SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement is made and entered into this 19th day of October 2022, among Walmart (defined below), the State of Florida and its Office of the Attorney General (the "State") (with Walmart and the State collectively referred to as the "Settling Parties"). This Settlement Agreement is intended by the Settling Parties to fully, finally and forever resolve, discharge and settle the Released Claims (as defined below), upon and subject to the terms and conditions hereof (the "Settlement").

WHEREAS, allegations have been made against Walmart that it historically, among other acts, distributed and dispensed prescription opioid pain medication improperly in a fashion that has caused Alleged Harms (defined below) to the health of Florida residents and to the State;

WHEREAS, numerous Litigating Subdivisions (defined below) have filed Actions (defined below) in various forums against Walmart, among others, raising Claims or allegations concerning, related to, based upon, or in connection with the Alleged Harms and/or the Covered Conduct (defined below) and seeking relief that overlaps in whole or in part with relief that the State could seek;

WHEREAS, numerous Subdivisions (defined below) that are not Litigating Subdivisions ("Non-Litigating Subdivisions") and the State of Florida could seek to file additional Actions raising Claims or allegations concerning, related to, based upon, or in connection with the Alleged Harms and/or the Covered Conduct and seeking relief that overlaps in whole or in part with the relief sought in the Actions filed by Litigating Subdivisions against Walmart;

WHEREAS, Walmart (i) denies each and all of the Claims and allegations of wrongdoing made by the Litigating Subdivisions in each of the Actions and maintains that it has meritorious defenses; (ii) denies all assertions of wrongdoing or liability against Walmart arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Actions already brought by Litigating Subdivisions or that could be brought by the State or Non-Litigating Subdivisions, and contends that the factual allegations made in the Litigating Subdivisions' Actions relating to Walmart are false and materially inaccurate; (iii) denies that any Litigating Subdivision, the State, or any other Subdivision, or any Florida resident, was harmed by any conduct of Walmart; (iv) denies liability, expressly denies any wrongdoing, and denies it violated any federal or state statute or common law; and (v) maintains that Walmart would be able to successfully defend against the Claims and allegations at trial, that the facts do not support the allegations, that Walmart engaged in no misconduct or unlawful activity, and caused no harm to the Litigating Subdivisions, the State, other Subdivisions, or any Florida residents;

WHEREAS, the Parties have investigated the facts and analyzed the relevant legal issues regarding the Claims and defenses that have been or could have been asserted in the Actions;

WHEREAS, having conducted a thorough investigation of the opioid industry, the Office of the Attorney General concluded based on objective data metrics that Walmart dispensed many fewer opioids per store and in dosages that were substantially lower than the other major chain pharmacies and independent pharmacies in Florida, and Walmart's share of opioids distributed and dispensed in Florida was substantially lower than the other major chain pharmacies;

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WHEREAS, the Office of the Attorney General's investigation concluded that the Company has already voluntarily implemented a wide-ranging, industry-leading, innovative, and comprehensive set of policies, procedures, and controls relating to the dispensing of prescription opioid medications and other controlled substances, including pharmacist training and empowerment programs, company-wide limitations on strength and duration of acute opioid prescriptions, and an industry-leading suite of opioid data analytics, which the Company uses to identify and investigate potentially problematic prescribing practices;

WHEREAS, the Office of the Attorney General brought lawsuits against other major chain pharmacies regarding their prescription opioid medication practices but not against Walmart;

WHEREAS, based on the aforementioned investigations and conclusions, the Office of the Attorney General believes that it is more efficient and valuable to the State of Florida to avoid the uncertainties and costs of litigation with Walmart and instead to resolve any claims the State may have through a cooperative and mutually beneficial settlement;

WHEREAS, because of Walmart's widespread presence throughout the state of Florida and Walmart's extensive experience distributing and dispensing Naloxone, the State selected Walmart as its preferred pharmacy partner to assist with the dispensing of Naloxone received by the State from Teva Pharmaceuticals Industries Ltd. ("Teva") pursuant to the State's settlement with Teva;

WHEREAS, the Parties have each considered the costs and delays and uncertainty associated with the prosecution and defense of an action and the continued prosecution and defense of the other Actions;

WHEREAS, the Parties believe the Settlement set forth herein avoids the uncertainties of litigation and assures that the benefits reflected herein are obtained;

WHEREAS, the State has concluded that the terms of the Settlement are fair, reasonable and adequate and in the best interest of the State and all Subdivisions and Florida citizens and residents;

WHEREAS, the State has determined that continuation or commencement of Actions against Walmart by Litigating Subdivisions or other Subdivisions would unduly interfere with the State's litigation authority to bring and resolve litigation in which the State has an interest and frustrate the State's efforts to obtain a favorable settlement;

WHEREAS, the Parties agree that neither this Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be a concession as to any Claim, an admission, evidence of any violation of any statute or law, evidence of any liability or wrongdoing by Walmart, or evidence of the truth of any of the Claims, allegations, denials, or defenses made in the Litigating Subdivisions' Actions;

WHEREAS, arm's-length settlement negotiations have taken place over the course of several months between Walmart and the State; and

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WHEREAS, the State views prompt settlement on the terms enclosed herein to be in the public interest and crucial to the State of Florida and its citizens; recognizes that Subdivisions may, notwithstanding their willingness to sign on to this settlement, wish to reserve the right to challenge the Attorney General's authority to bind them in other litigation that does not arise out of or relate to the Covered Conduct; and represents that the State shall not use those Subdivisions' acceptance of the terms of this Settlement as precedent in any litigation matter that does not arise out of or relate to the Alleged Harms and/or the Covered Conduct.

NOW, THEREFORE, IT IS HEREBY AGREED by and between the State and Walmart, by and through their respective counsel, as follows:

A. **Definitions.** As used in this Agreement, the following capitalized terms have the meanings specified below.

(a) "Actions" means any lawsuit by a Subdivision asserting any Released Claim against any Releasee.

(b) "Agreement," "Settlement" or "Settlement Agreement" means this Settlement Agreement, together with any exhibits attached hereto, which are incorporated herein by reference.

(c) "Alleged Harms" means the alleged past, present, and future financial, societal, and related expenditures arising out of the alleged misuse and abuse of opioid products, non-exclusive examples of which are described in the documents listed on Exhibit K, including those expenditures that have allegedly arisen as a result of the physical and bodily injuries sustained by individuals suffering from opioid-related addiction, abuse, death, and other related diseases and disorders, and that have allegedly been caused by Walmart.

(d) "Bankruptcy Code" means Title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.*

(e) "Bar" means either: (1) a law barring all Subdivisions in the State of Florida from maintaining Released Claims against Releasees (either through a direct bar or through a grant of authority to release Claims and the exercise of such authority in full) or (2) a ruling by the Florida Supreme Court (or a District Court of Appeal if a decision is not subject to further review by the Florida Supreme Court) setting forth the general principle that Subdivisions in the State of Florida may not maintain any Released Claims against Releasees, whether on the ground of this Agreement (or the release in it) or otherwise. For the avoidance of doubt, a law or ruling that is conditioned or predicated upon payment by a Releasee (apart from the payments by Walmart contemplated under this Agreement) shall not constitute a Bar.

(f) "Claim" means any past, present or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, penalty, judgment, right, obligation, dispute, suit, contract, controversy, agreement, *parens patriae* claim, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory or administrative, whether arising under federal, state or local common law, statute, regulation, guidance, ordinance or principles of equity, whether filed or unfiled, whether asserted or

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unasserted, whether known or unknown, whether accrued or unaccrued, whether foreseen, unforeseen or unforeseeable, whether discovered or undiscovered, whether suspected or unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in all such cases, including, but not limited to, any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, abatement, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees, consultant fees, fines, penalties, expenses, costs or any other legal, equitable, civil, administrative or regulatory remedy whatsoever.

(g) "Claim-Over" means a Claim asserted by any entity that is not a Releasor against a Releasee on the basis of contribution, indemnity, or other claim-over on any theory relating to Claims arising out of or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Releasee) asserted by a Releasor.

(h) "Consent Judgment" means a consent decree, order, judgment, or similar action; in connection with this Agreement, the Parties have agreed to the entry of the Consent Judgment attached hereto as Exhibit H, which provides for the release set forth below and the dismissal with prejudice of any Released Claims that the State of Florida Office of the Attorney General has brought against Releasees, on the terms and conditions specified herein.

(i) "Court" means the Sixth Judicial Circuit Court in and for Pasco County, State of Florida.

(j) "Covered Conduct" means any actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, misstatement, misleading statement or other activity of any kind whatsoever from the beginning of time through the Effective Date of the Release (and any past, present or future consequence of any such act, failure to act, negligence, statement, error, omission, breach of duty, conduct, event, transaction, agreement, misstatement, misleading statement or other activity) in any line of business arising from or relating in any way to any Product, including without limitation: (1) the distribution, dispensing, delivery, monitoring, reporting, supply, sale, prescribing, physical security, warehousing, coverage, purchases, reimbursement, discovery, development, manufacture, packaging, repackaging, marketing, promotion, advertising, labeling, recall, withdrawal, or use or abuse of any Product; orders, prescriptions, formularies, guidelines, payments or rebates for any Product; policies, practices and/or operating procedures, statements, contracts, commercial arrangements, insurance, claim or benefit administration, claim adjudication, plan design, data and sales thereof, and any other act or failure to act relating to, any Product; and any system, plan, policy or advocacy relating to any Product; (2) the characteristics, properties, risks or benefits of any Product; (3) the reporting, disclosure, non-reporting or non-disclosure to federal, state or other regulators of orders, prescriptions, or conduct related to any Product; (4) the purchasing, selling, acquiring, disposing of, importing, exporting, handling, processing, packaging, supplying, distributing, converting, or otherwise engaging in any activity relating to any Product; and (5) controls against diversion, corresponding responsibility, and suspicious order monitoring.

(k) "Walmart" means Walmart Inc.

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(l) "Effective Date of the Agreement" means 3 business days after the Initial Participation Date, provided that either a Bar exists or a mutually sufficient number of Subdivisions have become Participating Subdivisions by the Initial Participation Date. The Parties may alter the Effective Date of the Agreement by mutual written agreement. For the avoidance of doubt, the Effective Date of the Agreement will not occur if either Party determines in its sole discretion that an insufficient number of Subdivisions have become Participating Subdivisions by the Initial Participation Date.

(m) "Effective Date of the Release" means the date on which the Court enters the Consent Judgment.

(n) "Execution Date" means the date on which this Agreement is executed by the last Party to do so.

(o) "Initial Participation Date" means the date by which Litigating Subdivisions must join to become initial Participating Subdivisions. The Initial Participation Date shall be 30 days after the Execution Date. The Parties may alter the Initial Participation Date by mutual written agreement.

(p) "Litigating Subdivision" means a Subdivision (or Subdivision official) that has brought any Released Claim against any Releasees on or before the Execution Date, including, but not limited to, the agreed list of Litigating Subdivisions set forth in Exhibit A.

(q) "Litigation Costs" means attorneys' fees and investigative and litigation costs and expenses incurred in connection with Claims asserted against any Releasee in any Litigating Subdivision's Action.

(r) "Non-Joining Subdivision" means any Litigating Subdivision or Principal Subdivision that does not execute a subdivision settlement participation form attached as Exhibit D by the Post-Effective Date Sign-on Deadline.

(s) "Non-Litigating Subdivision" means a Subdivision that is not a Litigating Subdivision.

(t) "Non-Participating Subdivision" means a Subdivision that is not or is not yet a Participating Subdivision.

(u) "Opioid Remediation" means care, treatment and other programs and expenditures (including reimbursement for past such programs or expenditures, except where this Agreement restricts the use of funds solely to future Opioid Remediation) designed to remediate Alleged Harms, including to (1) address the misuse and abuse of opioid products, (2) treat or mitigate opioid use or related disorders, or (3) mitigate other alleged effects of, including on those injured as a result of, the opioid epidemic. Exhibit C provides a non-exhaustive list of expenditures that qualify as being paid for Opioid Remediation. Qualifying expenditures may include

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reasonable related administrative expenses.[1] Walmart denies that Opioid Remediation comprises cognizable abatement.

(v) "Participating Subdivision" means any Subdivision that executes a subdivision settlement participation form attached as Exhibit D.

(w) "Parties" and "Settling Parties" means Walmart and the State, with each being a "Party" and "Settling Party."

(x) "Post-Effective Date Sign-on Deadline" means the deadline for Subdivisions to execute a subdivision settlement participation form attached as Exhibit D, which shall be 150 days after the Effective Date of the Agreement.

(y) "Principal Subdivision" means: (1) a County, regardless of population; or (2) a Subdivision that is not a County, but is a General Purpose Government entity (including a municipality, city, town, township, parish, village, borough, gore or any other entities that provide municipal-type government) with a population of more than 10,000, including, but not limited to, the agreed list of Principal Subdivisions attached hereto as Exhibit B.

(z) "Product" means any chemical substance, whether licit or illicit, whether used for medicinal or non-medicinal purposes, and whether natural, synthetic, or semi-synthetic, or any finished pharmaceutical product made from or with such substance, that is: (1) an opioid or opiate, as well as any product containing any such substance; or (2) a benzodiazepine, a muscle relaxer, or gabapentin; or (3) a combination or "cocktail" of chemical substances prescribed, sold, bought or dispensed to be used together that includes opioids or opiates. "Product" shall include, but is not limited to, any substance consisting of or containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, oxycodone, oxymorphone, tapentadol, tramadol, opium, heroin, carfentanil, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triozolam, temazepam, midazolam, chlordiazepoxide, clobazam, clorazepate, flurazepam, lorazepam, temazepam, carisoprodol, cyclobenzaprine, orphenadrine, tizanidine, gabapentin, or any variant of these substances or any similar substance. Notwithstanding the foregoing, nothing in this definition prohibits a Releasor from taking administrative or regulatory action related to a benzodiazepine (including, but not limited to, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triozolam, temazepam, and midazolam), carisoprodol, or gabapentin that is wholly independent from the use of such drugs in combination with opioids, *provided* such action does not seek money (including abatement and/or remediation) for conduct prior to the Execution Date.

(aa) "Qualified Settlement Fund" means the Florida Qualified Settlement Fund contemplated by this Agreement, into which all payments by Walmart shall be made and which shall be established under the authority and jurisdiction of the Court and which shall be a "qualified settlement fund" within the meaning of 26 C.F.R. § 1.468B-1.

[1] Opioid Remediation includes amounts paid to satisfy any future demand by another governmental entity to make a required reimbursement in connection with the past care and treatment of a person.

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(bb) "Qualified Settlement Fund Administrator" means the Administrator appointed to administer the Qualified Settlement Fund under the authority and jurisdiction of the Court. The duties of the Qualified Settlement Fund Administrator shall be governed by this Agreement. The identity of the Qualified Settlement Fund Administrator and a detailed description of the Qualified Settlement Fund Administrator's duties and responsibilities, including a detailed mechanism for paying the Qualified Settlement Fund Administrator's fees and costs, will be set forth in a separate document to be prepared by the Parties and filed with the Court to establish the fund and be attached later to this Agreement as Exhibit E.

(cc) "Released Claims" means any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct and/or Alleged Harms occurring prior to the Effective Date of the Release. Without limiting the foregoing, Released Claims include any Claims that have been asserted against the Releasees by the State or any Litigating Subdivision in any federal, state or local Action or proceeding (whether judicial, arbitral or administrative) based on, arising out of or relating to, in whole or in part, the Covered Conduct and/or Alleged Harms, or any such Claims that could be or could have been asserted now or in the future in those Actions or in any comparable Action or proceeding brought by the State, any of its Subdivisions, or any Releasor (whether or not such State, Subdivision, or Releasor has brought such Action or proceeding). Released Claims also include all Claims asserted in any proceeding to be dismissed pursuant to this Agreement, whether or not such Claims relate to Covered Conduct. The Parties intend that this term, "Released Claims," be interpreted broadly. This Agreement does not release Claims by private individuals for any of their own damages for any alleged personal injuries arising out of their own use of any Product. But in any action arising from or relating to such Claims or the Covered Conduct and/or Alleged Harms, the Releasees may assert as a defense or otherwise argue that the Remediation Payments required herein serve as a measure of compensation for personal injuries or for other legal or equitable claims or demands asserted by private individuals or others. It is the intent of the Parties that Claims by private individuals be treated in accordance with applicable law. Released Claims is also used herein to describe Claims brought or maintained by any Subdivision in the future that would have been Released Claims if they had been brought by a Releasor against a Releasee.

(dd) "Releasees" means: (i) Walmart Inc.; (ii) all of their respective past and present, direct or indirect: parents, subsidiaries, divisions, affiliates, joint ventures, predecessors, successors, assigns and insurers (in their capacity as such) and all of their respective past and present, direct or indirect, parents, subsidiaries, divisions, affiliates, joint ventures, predecessors, successors, assigns and insurers (in their capacity as such); and (iii) the past and present officers, directors, members, shareholders (solely in their capacity as shareholders of the foregoing entities), partners, trustees, employees, agents, attorneys and insurers of each of the foregoing entities and persons referenced in clauses (i) through (ii) above for actions or omissions that occurred during and related to their work for, or employment with, any of the foregoing entities with respect to the Released Claims. An illustrative list of Released Entities is annexed to this Agreement as Exhibit L.

(ee) "Releasors" means with respect to Released Claims: (1) the State; (2) without limitation, all of the State of Florida's departments, agencies, divisions, boards, commissions, instrumentalities of any kind, including without limitation the Florida Attorney General, Florida Board of Pharmacy, Florida Department of Health, and Florida Department of

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Business and Professional Regulation, and any person in his or her official capacity, whether elected or appointed to lead or serve any of the foregoing, and any agency, person or entity claiming by or through any of the foregoing; (3) each Participating Subdivision; and (4) without limitation and to the maximum extent of the power of each of the State, the Florida Attorney General and/or Participating Subdivisions to release Claims, (a) every Subdivision, and every Subdivision's departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind and any person in his or her official capacity, whether elected or appointed to lead or serve any of the foregoing, and any agency, person or entity claiming by or through any of the foregoing; (b) any public entities, public instrumentalities, public educational institutions, unincorporated districts, fire districts, irrigation districts, water districts, law enforcement districts, emergency services districts, school districts, hospital districts and other special districts in the State of Florida; and (c) any person or entity acting in a *parens patriae*, sovereign, quasi-sovereign, private attorney general, *qui tam*, taxpayer, or other capacity seeking relief on behalf of or generally applicable to the general public with respect to the State of Florida or any Subdivision in the State of Florida, whether or not any of them participates in this Agreement. Nothing in this definition shall be construed to limit the definition of "Subdivision" in subsection A(gg) below. In addition to being a Releasor as provided herein, a Participating Subdivision shall also provide a subdivision settlement participation form (attached as Exhibit D) providing for a release to the fullest extent of the Participating Subdivision's authority, an executed copy of which shall be attached as an exhibit to and deemed to be a part of this Agreement.

(ff) "State-Subdivision Agreement" means a separate agreement among the State and all Participating Subdivisions providing for an allocation of, among other things, the Remediation Payment (defined below). The State-Subdivision Agreement is attached hereto as Exhibit I.

(gg) "Subdivision" means (1) any General Purpose Government entity (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore or any other entities that provide municipal-type government), School District, or Special District within the State, and (2) any other subdivision or subdivision official or sub-entity of or located within the State (whether political, geographical or otherwise, whether functioning or non-functioning, regardless of population overlap, and including, but not limited to, nonfunctioning governmental units and public institutions) that has filed or could file a lawsuit that includes a Released Claim against a Releasee in a direct, *parens patriae*, or any other capacity. "General Purpose Government," "School District," and "Special District" shall correspond to the "five basic types of local governments" recognized by the U.S. Census Bureau and match the 2017 list of Governmental Units. The three (3) General Purpose Governments are county, municipal, and township governments; the two (2) special purpose governments are School Districts and Special Districts. "Fire District," "Health District," "Hospital District," and "Library District" shall correspond to categories of Special Districts recognized by the U.S. Census Bureau. References to the State's Subdivisions or to the Subdivision "in," "of," or "within" the State include Subdivisions located within the State even if they are not formally or legally a sub-entity of the State.

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B. **Release and Dismissals of other Actions**.

1. It is the intention of the Settling Parties to fully and finally resolve all Released Claims that have been or could be brought against the Releasees by the State or any Subdivision with respect to the Covered Conduct and the Alleged Harms, and that the release of such Claims does not affect the State's or the Subdivisions' Claims as to any other defendant. The State represents and warrants that it will use its best efforts to obtain a consensual release of any and all Claims involving Covered Conduct and Alleged Harms that the State and all Subdivisions, including any Litigating Subdivision or Non-Litigating Subdivision, have asserted or could assert against the Releasees. Regardless whether such consensual release is obtained, the State represents and warrants under this Agreement that it is exercising its authority under law to release any and all Claims involving Covered Conduct and Alleged Harms that the State and all Subdivisions, including any Litigating Subdivision or Non-Litigating Subdivision, have asserted or could assert against the Releasees, and that it will exercise this authority to its fullest extent. The State further represents and warrants that it will use all available authority to bind, and under this Agreement is exercising such authority to bind, the State and all Subdivisions, including all Litigating Subdivisions and Non-Litigating Subdivisions, regardless of whether they become Participating Subdivisions or Non-Joining Subdivisions, to the terms of this Agreement.

2. In addition to the general release and dismissal to be provided by the State set forth in Sections D & E, the State will deliver to Walmart signed agreements from: (a) each Subdivision that executes a signed agreement by the Initial Participation Date; and (b) each Subdivision that executes a signed agreement by the Post-Effective Date Sign-on Deadline (i.e., within 150 days following the Effective Date of the Agreement). Such agreements shall include: (a) the Subdivision's acceptance of the terms and conditions of this Agreement by signing the subdivision settlement participation form attached as Exhibit D; (b) in the case of a Litigating Subdivision, such Litigating Subdivision's agreement to implement an immediate cessation of any and all litigation activities relating to such Litigating Subdivision's Action as to all Releasees; (c) in the case of a Litigating Subdivision, an agreement that the State may represent that the Litigating Subdivision supports the Consent Judgment to be entered in accordance with Section E below; and (d) in the case of a Litigating Subdivision, such Litigating Subdivision's agreement to file, within the later of seven (7) days of the Effective Date of the Release, or seven (7) days of signing the subdivision settlement participation form, a notice or stipulation of voluntary dismissal with prejudice of any and all Released Claims asserted by the Litigating Subdivision against the Releasees, with each party to bear its own costs.

3. Between the Execution Date and the Initial Participation Date, the State agrees to furnish to Walmart a report listing the Subdivisions that have executed the signed agreements described in Section B.2 and copies of such signed agreements on a weekly basis. The State further agrees to furnish to Walmart no later than noon Eastern Time on the day after the Initial Participation Date a final report listing the Subdivisions that have executed the signed agreements described in Section B.2 by the Initial Participation Date and copies of all such signed agreements. After the Initial Participation Date, the parties shall confer and establish a schedule for the regular provision of such reports and copies of signed agreements.

4. The State represents and warrants that, if any Action remains pending against one or more Releasees after the Effective Date of the Agreement or is filed by a Subdivision

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against any Releasee on or after the Execution Date, the State will seek to obtain dismissal of such Action as to such Releasees as soon as reasonably possible. Depending on facts and circumstances, the State may seek dismissal, among other ways, by intervening in such Action to move to dismiss or otherwise terminate the Subdivision's Claims in the Action or by commencing a declaratory judgment or other action that establishes a Bar to the Subdivision's Claims and Action. For avoidance of doubt, the State will seek dismissal of an Action under this subsection regardless whether the Subdivision in such Action is a Participating Subdivision.

5. In the event that the actions required of the State in Section B.4 fail to secure the prompt dismissal or termination of any Action by any Subdivision against any Releasee, the State shall seek enactment of a legislative Bar as defined in Section A(e)(1) and will endeavor to achieve enactment as soon as is practicable. Participating Subdivisions agree not to oppose any effort by the State to achieve enactment of a legislative Bar.

6. The State further represents and warrants that no portion of the Remediation Payment or the Litigation Costs Payments will be distributed to or used for the benefit of any Subdivision unless and until the State has delivered to Walmart a signed agreement from such Subdivision providing for the Subdivision's acceptance of the terms and conditions of this Agreement, including its express agreement to be bound by the irrevocable releases set forth in Section D below.

C. **Settlement Consideration**.

1. **Remediation Payment and Litigation Costs Payments**.

(a) The settlement sum is $215,000,000, consisting of (a) $187,937,062.10 to be spent on Opioid Remediation, reflecting a level of payment unique to the State of Florida based on the facts and circumstances only occurring in Florida; (b) $27,062,937.87 consisting of (i) $7,752,403.81 to be paid to the Common Benefit Fund established by the Ongoing Common Benefit Order (Dkt. #4428) in *In re National Prescription Opiate Litigation*, case no. 1:17-md-2804, pending in the United States District Court for the Northern District of Ohio Eastern Division ("Common Benefit Fund Payment"); and (ii) $19,310,534.06 to be divided by a subsequent agreement and disbursed as the Litigating Subdivision Litigation Cost Payment and State Cost Payment (collectively, the Litigating Subdivision Litigation Cost Payment and State Cost Payment are referred to as the "Cost Payments").The payments under this Section shall be paid on or before the later of (a) seven (7) days after the Effective Date of the Release, or (b) seven (7) day safter (i) the Qualified Settlement Fund has been established under the authority and jurisdiction of the Court, and (ii) Walmart has received a properly completed and executed IRS Form W9 from and wire instructions for the Qualified Settlement Fund. Walmart shall make the payment into the Qualified Settlement Fund. The Opioid Remediation payment shall be divided and paid according to the State/Subdivision Agreement, except that the agreed-upon amount set forth in the agreement between the State and Walmart relating to Walmart's dispensing of Naloxone manufactured by Teva Pharmaceuticals Industries Ltd. ("Teva") pursuant to the State's settlement with Teva shall be subtracted from the total settlement sum paid by Walmart and taken from the State Sub-Fund or State Cost Payment. The Qualified Settlement Fund Administrator shall allocate each of the Remediation Payment, The State Cost Payment, and the Litigating Subdivision Litigation Cost Payment into separate sub-funds within the Qualified Settlement

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Fund. Release of Remediation Payment and the Cost Payments shall be subject to the conditions specified below.

(b) An agreement on the handling of Litigating Subdivision Litigation Costs is attached as Exhibit G and incorporated herein by reference. The Litigating Subdivision Litigation Cost Payment is to be available to counsel for Litigating Subdivisions that become Participating Subdivisions and who waive any other right(s) they may have to compensation in connection with this Settlement for reasonable Litigation Costs incurred in connection with their Claims against Releasees.

(1) The Qualified Settlement Fund Administrator shall allow eligible counsel reimbursement for reasonable Litigation Costs as provided in Exhibit G. Such Litigation Costs shall be divided among Participating Subdivisions as provided in Exhibit G under the jurisdiction and authority of the Court. Any amount remaining in the Litigation Subdivision Litigation Costs Payment sub-fund after such allocation shall be returned to Walmart.

(2) No funds may be used to compensate Litigation Costs incurred by Non-Participating Subdivisions or Non-Litigating Subdivisions, or Litigation Costs arising out of representation of any such Subdivision.

(3) No attorney for any Litigating Subdivision may receive any share of the Litigating Subdivision Litigation Cost Payment unless the following eligibility requirements are met and certified by the attorney:

i. The attorney must represent that s/he has no present intent to represent or participate in the representation of any Subdivision or any Releasor with respect to the litigation of any Released Claims against any Releasees.

ii. The attorney must represent that s/he will not charge or accept any referral fees for any Released Claims asserted or maintained against Releasees by any Subdivision or any Releasor.

iii. The attorney may not have, and must represent that s/he does not have, a claim for fees, costs or expenses related to the litigation of any Released Claims against any Releasees by any Subdivision or any Releasor after the Execution Date.

iv. Notwithstanding the foregoing, nothing in this subsection C.1(b)(3) is intended to operate as a

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"restriction" on the right of any attorney to practice law within the meaning of Rule 5.6(b) of the Florida Rules of Professional Conduct or any equivalent provision of any other jurisdiction's rules of professional conduct.

(c) The State shall be entitled to the State Cost Payment in an amount to be determined between the State and Litigating Subdivisions. However, in no event shall the State Cost Payment, when combined with the Litigating Subdivision Litigation Cost Payment, exceed $19,310,534.06.

2. **No Other Payments by Releasees as to Covered Conduct, Alleged Harms, Released Claims, Other Actions, the State, Subdivisions or Litigation Costs.** Other than the Remediation Payments and the Costs Payments by Walmart referenced in Section C.1(a), none of the Releasees shall have any obligation to make any further or additional payments in connection with the Actions; Claims for Covered Conduct, Alleged Harms, or Litigation Costs; Released Claims; or this Settlement.

3. **Apportionment of the Remediation Payment.**

(a) It is the intent of the Parties that the Remediation Payment in Section C.1(a) be used exclusively for Opioid Remediation.

(b) In accordance with the State-Subdivision Agreement in Exhibit I, the Remediation Payment shall be allocated by the Qualified Settlement Fund Administrator into three sub-funds: an Abatement Accounts Sub-Fund (also known as a regional fund), a State Sub-Fund, and a Subdivision Sub-Fund to be allocated to the Abatement Accounts Sub-Fund or to another Participating Subdivision.

(c) A detailed mechanism consistent with the foregoing for a Qualified Settlement Fund Administrator to follow in allocating, apportioning and distributing payments will be filed with the Court and later attached as Exhibit J.

(d) Walmart shall have no duty, liability, or influence of any kind with respect to the apportionment and use of the Remediation Payment by the Qualified Settlement Fund Administrator. The State specifically represents, however, that any such apportionment and use by the Qualified Settlement Fund Administrator shall be made in accordance with the terms of this Agreement and all applicable laws.

4. **Release of the State Sub-Fund.** Within a reasonable period after the Effective Date of the Agreement or otherwise as ordered by the Court, the Qualified Settlement Fund Administrator shall release the State Sub-Fund to the State.

5. **Subdivision Payments to Subdivisions that Become Participating Subdivisions Prior to the Initial Participation Date.** A Participating Subdivision that (a) completes a subdivision settlement participation form prior to the Initial Participation Date, (b) joins the Florida Opioid Allocation and Statewide Response Agreement (Exhibit I), and (c) in the case of a Litigating Subdivision, dismisses with prejudice any and all Released Claims asserted by

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the Litigating Subdivision against the Releasees, shall be eligible to receive payment of a share of the Remediation Payment within a reasonable period after the Effective Date of the Agreement.

6. **Subdivision Payments to Subdivisions that Become Participating Subdivisions After the Initial Participation Date.** A Participating Subdivision that (a) completes a subdivision settlement participation form after the Initial Participation Date and by no later than the Post-Effective Date Sign-on Deadline, (b) joins the Florida Opioid Allocation and Statewide Response Agreement (Exhibit I), and (c) in the case of a Litigating Subdivision, dismisses with prejudice any and all Released Claims asserted by the Litigating Subdivision against the Releasees, shall be eligible to receive payment of a share of the Remediation Payment within a reasonable period after the Post-Effective Date Sign-on Deadline.

7. **Reversion to Walmart of Amounts Forfeited by Non-Joining Subdivisions.** Any Litigating Subdivision or Principal Subdivision that does not sign a participation agreement by the Post-Effective Date Sign-on Deadline will be deemed a Non-Joining Subdivision. At Walmart's request to the Qualified Settlement Fund Administrator, any Non-Joining Subdivision's share of the Remediation Payment (and to the extent any such subdivision is a Litigating Subdivision the Litigation Cost Payments) shall be returned to Walmart within a reasonable time after the Post-Effective Date Sign-on Deadline.

8. **Agreement Null and Void if the Agreement Does Not Become Effective.** In the event that the Effective Date of the Agreement does not occur, and the Parties fail to agree to extend the Effective Date of the Agreement, the Agreement shall be null and void, and Walmart shall have no obligation to pay or provide any of the settlement consideration in this Agreement.

9. **Injunctive Relief.** As part of the Consent Judgment to be entered in accordance with Section F below, the Parties agree to the entry of injunctive relief terms attached in Exhibit F.

D. **Settlement of Claims and General Release.**

1. **Scope.** On the Effective Date of the Release, the State and each Releasor shall be deemed to have fully, finally and forever released all Releasees from all Released Claims. The State, on behalf of itself and all other Releasors (whether or not they have signed this Agreement or the subdivision settlement participation form in Exhibit D), hereby absolutely, unconditionally and irrevocably covenants not to bring, file, or claim, or to cause, assist, or permit to be brought, filed, or claimed, any Released Claims of any type in any forum whatsoever against Releasees. For the avoidance of doubt, the State agrees that this Settlement Agreement and the releases contained herein shall fully and completely resolve any past, present or future liability that any Releasee may have arising from, relating to or based on Alleged Harms and Covered Conduct occurring prior to the Effective Date of the Release, whether in the Actions or otherwise. The releases provided for in this Agreement are intended by the Settling Parties to be broad and shall be interpreted so as to give the Releasees the broadest possible bar against any and all Released Claims. This Settlement Agreement is, will constitute, and may be pleaded as a complete bar to any Released Claim asserted against Releasees, whether against the State, any Participating Subdivision, or any other Subdivision, including any Non-Joining Subdivision.

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2. **General Release.** In connection with the releases provided pursuant to this Settlement Agreement, the State, on behalf of itself and all other Releasors referenced in Section D.1, expressly waives, releases and forever discharges any and all provisions, rights and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code, which reads:

> **General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those that he, she, or it knows or believes to be true with respect to the Released Claims, but the State, on behalf of itself and all other Releasors, hereby expressly waives and fully, finally and forever settles, releases and discharges, upon the Effective Date of the Release, any and all Released Claims against the Releasees that may exist as of this date but which they do not know or suspect to exist, whether through ignorance, oversight, error, negligence or otherwise, and which, if known, would materially affect their decision to enter into this Settlement Agreement.

3. **Claim-Over and Non-Party Settlement.**

(a) Statement of Intent. It is the intent of the Parties that:

(1) The Remediation Payment and Litigation Cost Payments made under this Agreement shall be the sole payments made by the Releasees to the Releasors involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Releasee) and/or Alleged Harms;

(2) Claims by Releasors against non-Parties should not result in additional payments by Releasees, whether through contribution, indemnification or any other means;

(3) The Settlement effects a good faith "release and covenant not to sue" within the meaning of Florida Statute § 768.31(5) and meets the requirements of the Uniform Contribution Among Joint Tortfeasors Act and any similar state law or doctrine, including, but not limited to, Fla. Stat. § 768.31(5), that reduces or discharges a released party's liability to any other parties, such that Releasees are discharged from all liability for contribution to any other alleged tortfeasor in the Florida AG Action and in any other Action, whenever filed; and

(4) The provisions of this Section D.3 are intended to be implemented consistent with these principles. This

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Agreement and the releases and dismissals provided for herein are made in good faith.

(b) No Releasee shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory, from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner; *provided* that a Releasee shall be relieved of this prohibition with respect to any person or entity that asserts a Claim-Over against it or with respect to any person or entity that brings any other form of action against Walmart arising out of or related to Covered Conduct. For the avoidance of doubt, nothing herein shall prohibit a Releasee from recovering amounts owed pursuant to insurance contracts.

(c) To the extent that, on or after the Effective Date of the Agreement, any Releasor settles any Claims arising out of or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Releasee) ("Non-Party Covered Conduct Claims") it may have against any entity that is not a Releasee (a "Non-Released Entity") that is, as of the Effective Date of the Agreement, a defendant in any Action and provides a release to such Non-Released Entity (a "Non-Party Settlement"), including in any bankruptcy case or through any plan of reorganization (whether individually or as a class of creditors), the Releasor will seek to include (or in the case of a Non-Party Settlement made in connection with a bankruptcy case, will cause the debtor to include), unless prohibited from doing so under applicable law, in the Non-Party Settlement a prohibition on seeking contribution or indemnity of any kind from Releasees substantially equivalent to that required from Walmart in subsection D.3(b) (except limited to such claims against Releasees), or a release from such Non-Released Entity in favor of the Releasees (in a form equivalent to the releases contained in this Agreement) of any Claim-Over. The obligation to seek to obtain the prohibition and/or release required by this subsection is a material term of this Agreement.

(d) Claim-Over. In the event that any Releasor obtains a judgment with respect to a Non-Party Covered Conduct Claim against a Non-Released Entity that does not contain a prohibition like that in subsection D.3(b), or any Releasor files a Non-Party Covered Conduct Claim against a Non-Released Entity in bankruptcy or a Releasor is prevented for any reason from obtaining a prohibition/release in a Non-Party Settlement as provided in subsection D.3(c), and such Non-Released Entity asserts a Claim-Over against a Releasee, Walmart and that Releasor shall meet and confer concerning any additional appropriate means by which to ensure that Releasees are not required to make any payment with respect to Covered Conduct (beyond the amounts that will already have been paid by Walmart under this Settlement Agreement).

(e) In no event shall a Releasor be required to reduce the amount of a settlement or judgment against a Non-Released Entity in order to prevent additional payments by Releasees, whether through contribution, indemnification, or any other means.

(f) **Cooperation.** Releasors, including the State and Participating Subdivisions, agree that they will not publicly or privately encourage any person, entity, or other Releasor to bring or maintain any Released Claim. The State further agrees that it will cooperate in good faith with the Releasees to secure the prompt dismissal of any and all Released Claims.

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The State and any Participating Subdivisions shall use best efforts to assist in the stay of any Subdivision Actions through the Post-Effective Date Sign-on Deadline.

E. **Entry of Consent Judgment Providing for Dismissal of All Claims Against Walmart in the Florida AG Action with Prejudice.** As soon as practicable following the Effective Date of the Agreement, the State shall file in the Court a Complaint and a Consent Judgment substantially in the form of Exhibit H, including a dismissal of the Claims with prejudice. Notwithstanding the foregoing, the Consent Judgment shall provide that the Court shall retain jurisdiction for purposes of enforcing compliance with the injunctive terms set forth in Exhibit F. The parties shall confer and agree as to the final form and time of filing prior to filing of the Consent Judgment.

F. **No Admission of Liability.** The Settling Parties intend the Settlement as described herein to be a final and complete resolution of all disputes between Walmart and the State and between Walmart and all Releasors. Walmart is entering into this Settlement Agreement solely for the purposes of settlement, to resolve all Actions and Released Claims and thereby avoid significant expense, inconvenience and uncertainty. Walmart denies the allegations in the Actions and denies any civil or criminal liability in the Actions. Nothing contained herein may be taken as or deemed to be an admission or concession by Walmart of: (i) any violation of any law, regulation, or ordinance; (ii) any fault, liability, or wrongdoing; (iii) the strength or weakness of any Claim or defense or allegation made in any Action, or in any other past, present or future proceeding relating to any Covered Conduct or any Product; (iv) the legal viability of the claims and theories in any Action, including but not limited to the legal viability of the relief sought; or (v) any other matter of fact or law. Nothing in this Settlement Agreement shall be construed or used to prohibit any Releasee from engaging in the conduct of its business relating to any Product in accordance with applicable laws and regulations.

G. **Miscellaneous Provisions.**

1. **Use of Agreement as Evidence.** Neither this Agreement nor any act performed or document executed pursuant to or in furtherance of this Agreement: (i) is or may be deemed to be or may be used as an admission or evidence relating to any matter of fact or law alleged in the Actions, the strength or weakness of any claim or defense or allegation made in those cases, or any wrongdoing, fault, or liability of any Releasees; or (ii) is or may be deemed to be or may be used as an admission or evidence relating to any liability, fault or omission of Releasees in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Neither this Agreement nor any act performed or document executed pursuant to or in furtherance of this Agreement shall be admissible in any proceeding for any purpose, except to enforce the terms of the Settlement, and except that Releasees may file or use this Agreement in any action (1) involving a determination regarding insurance coverage; (2) involving a determination of the taxable income or tax liability of any Released Entities; (3) to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good-faith settlement, judgment bar or reduction or on any other theory of claim preclusion or issue preclusion or similar defense or counterclaim; (4) to support a claim for contribution and/or indemnification; or (5) to support any other argument or defense by a Releasee that the Remediation Payments provide a measure of compensation for asserted harms or otherwise satisfy the relief sought.

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2. **Voluntary Settlement.** This Settlement Agreement was negotiated in good faith and at arm's-length over several months and the exchange of the Remediation Payment and Litigation Costs Payments for the releases set forth herein is agreed to represent appropriate and fair consideration.

3. **Authorization to Enter Settlement Agreement.** Each party specifically represents and warrants that this Settlement Agreement constitutes a legal, valid and binding obligation of such Party. Each signatory to this Settlement Agreement on behalf of a Party specifically represents and warrants that he or she has full authority to enter into this Settlement Agreement on behalf of such Party. The State specifically represents and warrants that it has concluded that the terms of this Settlement Agreement are fair, reasonable, adequate and in the public interest, and that it has satisfied all conditions and taken all actions required by law in order to validly enter into this Settlement Agreement. The State specifically represents and warrants that, other than the Claims asserted in the Actions (whether filed previously or in the future), it has no interest (financial or otherwise) in any other Claim against any Releasee related to the Covered Conduct. In addition, the State specifically represents and warrants that (i) it is the owner and holder of its Claims; (ii) it has not sold, assigned or otherwise transferred the Claims or any portion thereof or rights related thereto, to any third party; and (iii) it believes in good faith that it has the power and authority to bind all persons and entities with an interest in the Actions and all Subdivisions.

4. **Representation With Respect to Participation Rate.** The State of Florida represents and warrants for itself that it has a good-faith belief that all Litigating Subdivisions and all Principal Subdivisions will become Participating Subdivisions. The State acknowledges the materiality of the foregoing representation and warranty.

5. **Dispute Resolution.** If either the State or Walmart believes the other is not in compliance with any term of this Settlement Agreement, then that Party shall (i) provide written notice to the other Party specifying the reason(s) why it believes the other is not in compliance with the Settlement Agreement; and (ii) allow the other Party at least thirty (30) days to attempt to cure such alleged non-compliance (the "Cure Period"). In the event the alleged non-compliance is cured within the Cure Period, the other Party shall not have any liability for such alleged non-compliance. A party may not commence a proceeding to enforce compliance with this Agreement before the expiration of the Cure Period.

6. **No Third-Party Beneficiaries.** Except as to Releasees, nothing in this Settlement Agreement is intended to or shall confer upon any third party any legal or equitable right, benefit or remedy of any nature whatsoever.

7. **Notices.** All notices under this Agreement shall be in writing and delivered to the persons specified in this subsection ("Notice Designees") via: (i) e-mail; and (ii) either hand delivery or registered or certified mail, return receipt requested, postage pre-paid.

Notices to the State shall be delivered to:

Attorney General
Florida State Capitol, PL-01

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Tallahassee FL 32399-1050

Notices to Walmart shall be delivered to:

Karen Roberts
Executive Vice President and General Counsel
Walmart, Inc.
702 S.W. 8th Street
Bentonville, AR 72716
Karen.Roberts@walmartlegal.com

Notices to Walmart's attorneys shall be delivered to:

David W. Ogden
Charles C. Speth
Wilmer Cutler Pickering Hale and Dorr LLP
1875 Pennsylvania Avenue, NW
Washington, DC 20006
David.Ogden@wilmerhale.com
Charles.Speth@wilmerhale.com

8. **Taxes.** Each of the Parties acknowledges, agrees, and understands that the State and Participating Subdivisions sought restitution and remediation within the meaning of 26 U.S.C. § 162(f)(2)(A) and 26 C.F.R. § 1.162-21(e)(4)(i), (ii) as damages for the Alleged Harms. Each of the Parties acknowledges, agrees, and understands that the Remediation Payment is no greater than the amount, in the aggregate, of the harms allegedly suffered by the State and Participating Subdivisions. Each of the Parties acknowledges, agrees and understands that it is its intention that, for purposes of Section 162(f) of the Internal Revenue Code, the Remediation Payment by Walmart ($187,937,062.10) constitutes restitution and remediation for damage or harm allegedly caused by Walmart in order to restore, in whole or in part, the State, Participating Subdivisions, and persons to the same position or condition that they would be in had the State, Participating Subdivisions, and persons not suffered the Alleged Harms, and constitutes restitution and remediation for damage or harm allegedly caused by the potential violation of a law and/or is an amount paid to come into compliance with the law. For the avoidance of doubt, "restitution" as used herein has the meaning of 26 U.S.C. § 162(f)(2)(A) and 26 C.F.R. § 1.162-21(e)(4)(i), (ii); "restitution" as used herein does not refer to the disgorgement of ill-gotten gains. The Parties acknowledge, agree, and understand that no portion of the Remediation Payment represents the disgorgement of any allegedly ill-gotten gains. The Parties acknowledge, agree and understand that only the Common Benefit Fund Payment ($7,752,403.81) and Litigation Costs Payments ($19,310,534.06) represent reimbursement to the State or any other person or entity for the fees and costs of any investigation or litigation, that no portion of the Remediation Payment represents reimbursement to the State or any other person or entity for the fees and costs of any investigation or litigation, and no portion of the Remediation Payment represents or should properly be characterized as the payment of fines, penalties or other punitive assessments. The State acknowledges, agrees and understands that Walmart intends to allocate the cost of the Remediation Payment among the Releasees using a reasonable basis. The State shall complete and file, on behalf

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of the State and every Participating Subdivision, Form 1098-F with the Internal Revenue Service, on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the Agreement becomes binding, identifying the Remediation Payment as remediation/restitution amounts, and shall promptly and timely furnish Copy B of such Form 1098-F to Walmart. Alternatively, if reasonably requested by Walmart, the State and every Participating Subdivision shall each complete and file Form 1098-F with the Internal Revenue Service on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the Agreement becomes binding. On the Form 1098-F, the State and each Participating Subdivision shall identify the Remediation Amount as restitution/remediation amounts and shall furnish Copy B of such Form 1098-F to Walmart. Walmart makes no warranty or representation to the State as to the tax consequences of the Remediation Payment or the Litigation Costs Payments or any portion thereof.

9. **Binding Agreement.** This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

10. **Choice of Law.** Any dispute arising from or in connection with this Settlement Agreement shall be governed by Florida law without regard to its choice-of-law provisions.

11. **Jurisdiction.** The Parties agree to submit and consent to the jurisdiction of the Court for the resolution of any disputes arising under the Settlement Agreement.

12. **No Conflict Intended.** The headings used in this Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Agreement. The definitions contained in this Agreement or any Exhibit hereto are applicable to the singular as well as the plural forms of such terms.

13. **No Party Deemed to be the Drafter.** None of the Parties hereto shall be deemed to be the drafter of this Agreement or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

14. **Amendment; Waiver.** This Agreement shall not be modified in any respect except by a writing executed by all the Parties hereto, and the waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous.

15. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

16. **Severability.** In the event any one or more material provisions of this Settlement Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Settlement Agreement.

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17. **Statements to the Press.** Any press release or other public statement concerning this Settlement Agreement will describe it positively and will not disparage any other Party. No Party or attorney, agent, or representative of any Party shall state or suggest that this Settlement Agreement may be used to predict the value of any Claim or any future settlement agreement in any action or proceeding.

18. **Integrated Agreement.** This Agreement constitutes the entire agreement between the Settling Parties and no representations, warranties or inducements have been made to any Party concerning this Agreement other than the representations, warranties and covenants contained and memorialized herein.

19. **Bankruptcy.** The following provisions shall apply if, (i) within ninety (90) days of Walmart's payment pursuant to Section C.1(a) above, a case is commenced with respect to Walmart under the Bankruptcy Code, and (ii) a court of competent jurisdiction enters a final order determining such payment to be an avoidable preference under Section 547 of the Bankruptcy Code, and (iii) pursuant to such final order such payment is returned to Walmart:

(a) this Agreement, including all releases and covenants not to sue with respect to the Released Claims contained in this Agreement, shall immediately and automatically be deemed null and void as to Walmart; and

(b) the State and Subdivisions may assert any and all Released Claims against Walmart in its bankruptcy case and seek to exercise all rights provided under the federal Bankruptcy Code (or other applicable bankruptcy or non-bankruptcy law) with respect to their Claims against Walmart.

20. **Most Favored Nations.** If, after execution of this Agreement, there is a collective resolution—through settlement, bankruptcy or other mechanism—of substantially all claims against Walmart brought by states, counties, and municipalities nationwide (a "Global Resolution") under which, but for this Agreement, the Florida allocation of the Remediation Payment, the Litigation Cost Payments, the payment period or the terms of injunctive relief would be more favorable to the State, Walmart shall pay the excess amounts that the State would have received, adjust the payment period and/or agree to modify the terms of the Consent Judgment to reflect changes to the injunctive relief that would apply to Florida, if requested to do so by the Florida Attorney General's Office. Additionally, if at any time within the ten months following the Execution Date Walmart enters into a settlement with the attorney general of any state with a smaller population than Florida for a total settlement amount that exceeds $188,322,027.00, Walmart shall pay the excess amount to Florida. Any reduction in the payment period under this subsection shall be subject to a reduction in net present value calculated at eight percent (8%) per annum.

IN WITNESS WHEREOF, the Parties hereto, through their fully authorized representatives, have executed this Agreement as of the dates set forth below.

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WALMART INC.

By: Rachel Brand

Name: Rachel Brand
Executive Vice President of Global Governance, Chief Legal Officer and Corporate Secretary

Date: 10/19/2022

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THE STATE

STATE OF FLORIDA, including the OFFICE OF THE ATTORNEY GENERAL

By: John Guard

Name: John Guard
Chief Deputy Attorney General of Florida
Pursuant to the authority delegated to him by
Ashley Moody, Attorney General of Florida

Date: 10/19/2022

EXHIBIT A

LITIGATING SUBDIVISIONS

Counties

Alachua County
Bay County
Bradford County
Brevard County
Broward County
Clay County
Dixie County
Escambia County
Gilchrist County
Hamilton County
Jackson County
Lake County
Lee County
Leon County
Levy County
Manatee County
Marion County
Miami-Dade County
Monroe County
Okaloosa County
Orange County
Osceola County
Palm Beach County
Pasco County
Pinellas County
Putnam County
Santa Rosa County
Seminole County
St. Johns County
St. Lucie County
Suwannee County
Taylor County
Union County
Volusia County
Walton County

Cities

Apopka
Bradenton
Clearwater
Coconut Creek
Coral Springs
Daytona Beach
Daytona Beach Shores
Deerfield Beach
Deltona
Eatonville
Florida City
Fort Lauderdale
Fort Pierce
Hallandale Beach
Homestead
Lauderhill
Lynn Haven
Miami Gardens
Miramar
New Port Richey
Niceville
North Miami
Ocala
Ocoee
Orlando
Ormond Beach
Oviedo
Palatka
Palm Bay
Palmetto
Panama City
Pembroke Pines
Pensacola
Pinellas Park
Pompano Beach
Port St. Lucie
Sanford
Sarasota

St. Augustine
St. Petersburg
Sweetwater
Tallahassee

Other

Halifax Hospital Medical Center
Lee Memorial Health System, d/b/a Lee Health
Miami-Dade County School Board
North Broward Hospital District
Putnam County School Board
Sarasota County Public Hospital District
West Volusia Hospital Authority

EXHIBIT B

PRINCIPAL SUBDIVISIONS

County	Principal Subdivisions	Regional % by County for Abatement Fund	City/County Fund % (Principal Subdivisions Only)
Alachua		1.24106016444867%	
	Alachua County		0.846347404896564%
	Alachua		0.013113332456932%
	Gainesville		0.381597611347118%
Baker		0.19317380413017%	
	Baker County		0.193173804130173%
Bay		0.83965637331199%	
	Bay County		0.539446037057239%
	Callaway		0.024953825526948%
	Lynn Haven		0.039205632014689%
	Panama City		0.155153855595736%
	Panama City Beach		0.080897023117378%
Bradford		0.18948420408137%	
	Bradford County		0.189484204081366%
Brevard		3.87879918044396%	
	Brevard County		2.387076812679440%
	Cape Canaveral		0.045560750208993%
	Cocoa		0.149245411423089%
	Cocoa Beach		0.084363286155357%
	Melbourne		0.383104682233196%
	Palm Bay		0.404817397481049%
	Rockledge		0.096603243797586%
	Satellite Beach		0.035975416223927%
	Titusville		0.240056418923581%
	West Melbourne		0.051997577065795%
Broward		9.05796267257777%	
	Broward County		4.062623697836280%
	Coconut Creek		0.101131719448042%
	Cooper City		0.073935445072532%
	Coral Springs		0.323406517663960%
	Dania Beach		0.017807041180440%
	Davie		0.266922227152987%
	Deerfield Beach		0.202423224724969%
	Fort Lauderdale		0.830581264530524%
	Hallandale Beach		0.154950491813518%
	Hollywood		0.520164608455721%
	Lauderdale Lakes		0.062625150434726%
	Lauderhill		0.144382838130419%
	Lighthouse Point		0.029131861802689%
	Margate		0.143683775129045%
	Miramar		0.279280208418825%

	North Lauderdale		0.066069624496039%
	Oakland Park		0.100430840698613%
	Parkland		0.045804060448432%
	Pembroke Pines		0.462832363602822%
	Plantation		0.213918725664437%
	Pompano Beach		0.335472163492860%
	Sunrise		0.286071106146452%
	Tamarac		0.134492458472026%
	Weston		0.138637811282768%
	West Park		0.029553115351569%
	Wilton Manors		0.031630331127078%
Calhoun		0.04712774078090%	
	Calhoun County		0.047127740780902%
Charlotte		0.73734623337592%	
	Charlotte County		0.690225755587238%
	Punta Gorda		0.047120477788680%
Citrus		0.96964577660634%	
	Citrus County		0.969645776606338%
Clay		1.19342946145639%	
	Clay County		1.193429461456390%
Collier		1.55133337642709%	
	Collier County		1.354822227370880%
	Marco Island		0.062094952002516%
	Naples		0.134416197053695%
Columbia		0.44678115079207%	
	Columbia County		0.342123248620213%
	Lake City		0.104659717919908%
DeSoto		0.11364040780249%	
	DeSoto County		0.113640407802487%
Dixie		0.10374458089993%	
	Dixie County		0.103744580899928%
Duval		5.43497515693510%	
	Jacksonville		5.295636466902910%
	Atlantic Beach		0.038891507601085%
	Jacksonville Beach		0.100447182431112%
Escambia		1.34163444924367%	
	Escambia County		1.010997622822650%
	Pensacola		0.330636826421023%
Flagler		0.38986471224388%	
	Flagler County		0.305009358365478%
	Palm Coast		0.084857169626457%
Franklin		0.04991128255001%	
	Franklin County		0.049911282550008%
Gadsden		0.12365607407671%	
	Gadsden County		0.123656074076710%
Gilchrist		0.06433376935497%	
	Gilchrist County		0.064333769354966%
Glades		0.04061283675771%	

	Glades County		0.040612836757713%
Gulf		0.05991423858784%	
	Gulf County		0.059914238587842%
Hamilton		0.04794119590977%	
	Hamilton County		0.047941195909773%
Hardee		0.06711004813185%	
	Hardee County		0.067110048131850%
Hendry		0.14446091529681%	
	Hendry County		0.144460915296806%
Hernando		1.51007594910967%	
	Hernando County		1.510075949109670%
Highlands		0.35718851023682%	
	Highlands County		0.293187022776017%
	Avon Park		0.025829016089707%
	Sebring		0.038172471371100%
Hillsborough		8.71098411365711%	
	Hillsborough County		6.523111204400210%
	Plant City		0.104218491142418%
	Tampa		1.975671881252980%
	Temple Terrace		0.107980721113446%
Holmes		0.08161242785125%	
	Holmes County		0.081612427851251%
Indian River		0.75307605878085%	
	Indian River County		0.654117789755259%
	Sebastian		0.038315915467486%
	Vero Beach		0.060642353558104%
Jackson		0.15893605879538%	
	Jackson County		0.158936058795375%
Jefferson		0.04082164778410%	
	Jefferson County		0.040821647784097%
Lafayette		0.03191177207568%	
	Lafayette County		0.031911772075683%
Lake		1.13921122451870%	
	Lake County		0.781548804039386%
	Clermont		0.075909163208877%
	Eustis		0.041929254097962%
	Fruitland Park		0.008381493024259%
	Groveland		0.026154034991644%
	Lady Lake		0.025048244425835%
	Leesburg		0.091339390184647%
	Minneola		0.016058475802978%
	Mount Dora		0.041021380070204%
	Tavares		0.031820984672908%
Lee		3.32537188335925%	

	Lee County		2.150386790650790%
	Bonita Springs		0.017374893143227%
	Cape Coral		0.714429677167259%
	Estero		0.012080171813344%
	Fort Myers		0.431100350584635%
Leon		0.89719924493933%	
	Leon County		0.471201146390692%
	Tallahassee		0.425998098548636%
Levy		0.25119240174806%	
	Levy County		0.251192401748057%
Liberty		0.01939945222513%	
	Liberty County		0.019399452225127%
Madison		0.06354028745471%	
	Madison County		0.063540287454706%
Manatee		2.72132334623483%	
	Manatee County		2.288523455470230%
	Bradenton		0.379930754632155%
	Palmetto		0.052869136132442%
Marion		1.70117616896044%	
	Marion County		1.332181664866660%
	Ocala		0.368994504093786%
Martin		0.86948729811605%	
	Martin County		0.788263440348682%
	Stuart		0.081223857767371%
Miami-Dade		5.23211978417292%	
	Miami-Dade County		4.322006939062770%
	Aventura		0.024619727884733%
	Coral Gables		0.071780152130635%
	Cutler Bay		0.009414653667847%
	Doral		0.013977628531358%
	Florida City		0.003929278792135%
	Hialeah		0.098015895784777%
	Hialeah Gardens		0.005452691410713%
	Homestead		0.024935668046393%
	Key Biscayne		0.013683477346364%
	Miami		0.292793005447970%
	Miami Beach		0.181409572478489%
	Miami Gardens		0.040683650931878%
	Miami Lakes		0.007836768607605%
	Miami Shores		0.006287935516250%
	Miami Springs		0.006169911892641%
	North Bay Village		0.005160355973775%
	North Miami		0.030379280716828%
	North Miami Beach		0.030391990953217%

	Opa-locka		0.007847663095938%
	Palmetto Bay		0.007404620570392%
	Pinecrest		0.008296152865650%
	South Miami		0.007833137111493%
	Sunny Isles Beach		0.007693324511219%
	Sweetwater		0.004116300841853%
Monroe		0.47638873858530%	
	Monroe County		0.388301353168081%
	Key West		0.088087385417219%
Nassau		0.47693346300195%	
	Nassau County		0.393774017807404%
	Fernandina Beach		0.083159445194550%
Okaloosa		0.81921286595494%	
	Okaloosa County		0.634511342251804%
	Crestview		0.070440130065665%
	Destin		0.014678507280787%
	Fort Walton Beach		0.077837487643835%
	Niceville		0.021745398712853%
Okeechobee		0.35349527869191%	
	Okeechobee County		0.353495278691906%
Orange		4.67102821454589%	
	Orange County		3.130743665036610%
	Apopka		0.097215150892295%
	Eatonville		0.008325204834538%
	Maitland		0.046728276208689%
	Ocoee		0.066599822928250%
	Orlando		1.160248481489900%
	Winter Garden		0.056264584996256%
	Winter Park		0.104903028159347%
Osceola		1.07345209294015%	
	Osceola County		0.837248691390376%
	Kissimmee		0.162366006872243%
	St. Cloud		0.073837394677534%
Palm Beach		8.60159437205259%	
	Palm Beach County		5.964262083621730%
	Belle Glade		0.020828445944817%
	Boca Raton		0.472069073961229%
	Boynton Beach		0.306498271771001%
	Delray Beach		0.351846579457498%
	Greenacres		0.076424835656644%
	Jupiter		0.125466374888059%
	Lake Worth		0.117146617297688%
	Lantana		0.024507151505292%
	North Palm Beach		0.044349646255964%
	Palm Beach Gardens		0.233675880256500%

	Palm Springs		0.038021764282493%
	Riviera Beach		0.163617057282493%
	Royal Palm Beach		0.049295743959188%
	Wellington		0.050183644758335%
	West Palm Beach		0.549265602541466%
Pasco		4.69208726049375%	
	Pasco County		4.429535538910390%
	New Port Richey		0.149879107494464%
	Zephyrhills		0.112672614088898%
Pinellas		7.93488981677650%	
	Pinellas County		4.793536735851510%
	Clearwater		0.633863120195985%
	Dunedin		0.102440873796068%
	Gulfport		0.047893986460330%
	Largo		0.374192990776726%
	Oldsmar		0.039421706033295%
	Pinellas Park		0.251666311990547%
	Safety Harbor		0.038061710739714%
	Seminole		0.095248695748172%
	St. Petersburg		1.456593090134460%
	Tarpon Springs		0.101970595049690%
Polk		2.15048302529773%	
	Polk County		1.601687701502640%
	Auburndale		0.028636162583534%
	Bartow		0.043971970660417%
	Haines City		0.047984773863106%
	Lakeland		0.294875668467647%
	Lake Wales		0.036293172133642%
	Winter Haven		0.097033576086743%
Putnam		0.38489319406788%	
	Putnam County		0.337937949352250%
	Palatka		0.046955244715628%
Santa Rosa		0.70126731951283%	
	Santa Rosa County		0.654635277951081%
	Milton		0.046632041561747%
Sarasota		2.80504385757853%	
	Sarasota County		1.968804722107020%
	North Port		0.209611771276754%
	Sarasota		0.484279979634570%
	Venice		0.142347384560186%
Seminole		2.14114826454432%	
	Seminole County		1.508694164839420%
	Altamonte Springs		0.081305566429869%
	Casselberry		0.080034542791008%
	Lake Mary		0.079767627826847%

	Longwood		0.061710013414747%
	Oviedo		0.103130858057164%
	Sanford		0.164243490361646%
	Winter Springs		0.062262000823623%
St. Johns		0.71033334955402%	
	St. Johns County		0.663822963111989%
	St. Augustine		0.046510386442027%
St. Lucie		1.50662784355224%	
	St. Lucie County		0.956289133909966%
	Fort Pierce		0.159535255653695%
	Port St. Lucie		0.390803453988581%
Sumter		0.32639887045945%	
	Sumter County		0.312364953738371%
	Wildwood		0.014033916721079%
Suwannee		0.19101487969217%	
	Suwannee County		0.191014879692165%
Taylor		0.09218189728241%	
	Taylor County		0.092181897282406%
Union		0.06515630322411%	
	Union County		0.065156303224115%
Volusia		3.13032967447995%	
	Volusia County		1.784428217305820%
	Daytona Beach		0.447556475211771%
	DeBary		0.035283616214775%
	DeLand		0.098983689498367%
	Deltona		0.199329190038370%
	Edgewater		0.058042202342606%
	Holly Hill		0.031615805142634%
	New Smyrna Beach		0.104065968305755%
	Orange City		0.033562287058147%
	Ormond Beach		0.114644516477187%
	Port Orange		0.177596501561906%
	South Daytona		0.045221205322611%
Wakulla		0.11512932120801%	
	Wakulla County		0.115129321208010%
Walton		0.26855821615101%	
	Walton County		0.268558216151006%
Washington		0.12012444410873%	
	Washington County		0.120124444108733%

EXHIBIT C

OPIOID REMEDIATION

Schedule A
Core Strategies

Subdivisions shall choose from among the abatement strategies listed in Schedule B. However, priority shall be given to the following core abatement strategies ("*Core Strategies*").[1]

A. **NALOXONE OR OTHER FDA-APPROVED MEDICATION TO REVERSE OPIOID OVERDOSES**

1. Expand training for first responders, schools, community support groups and families; and

2. Increase distribution to individuals who are uninsured or whose insurance does not cover the needed service.

B. **MEDICATION-ASSISTED TREATMENT ("*MAT*") DISTRIBUTION AND OTHER OPIOID-RELATED TREATMENT**

1. Increase distribution of MAT to individuals who are uninsured or whose insurance does not cover the needed service;

2. Provide education to school-based and youth-focused programs that discourage or prevent misuse;

3. Provide MAT education and awareness training to healthcare providers, EMTs, law enforcement, and other first responders; and

4. Provide treatment and recovery support services such as residential and inpatient treatment, intensive outpatient treatment, outpatient therapy or counseling, and recovery housing that allow or integrate medication and with other support services.

[1] As used in this Schedule A, words like "expand," "fund," "provide" or the like shall not indicate a preference for new or existing programs.

C. **PREGNANT & POSTPARTUM WOMEN**

1. Expand Screening, Brief Intervention, and Referral to Treatment ("*SBIRT*") services to non-Medicaid eligible or uninsured pregnant women;

2. Expand comprehensive evidence-based treatment and recovery services, including MAT, for women with co-occurring Opioid Use Disorder ("*OUD*") and other Substance Use Disorder ("*SUD*")/Mental Health disorders for uninsured individuals for up to 12 months postpartum; and

3. Provide comprehensive wrap-around services to individuals with OUD, including housing, transportation, job placement/training, and childcare.

D. **EXPANDING TREATMENT FOR NEONATAL ABSTINENCE SYNDROME ("*NAS*")**

1. Expand comprehensive evidence-based and recovery support for NAS babies;

2. Expand services for better continuum of care with infant-need dyad; and

3. Expand long-term treatment and services for medical monitoring of NAS babies and their families.

E. **EXPANSION OF WARM HAND-OFF PROGRAMS AND RECOVERY SERVICES**

1. Expand services such as navigators and on-call teams to begin MAT in hospital emergency departments;

2. Expand warm hand-off services to transition to recovery services;

3. Broaden scope of recovery services to include co-occurring SUD or mental health conditions;

4. Provide comprehensive wrap-around services to individuals in recovery, including housing, transportation, job placement/training, and childcare; and

5. Hire additional social workers or other behavioral health workers to facilitate expansions above.

F. **TREATMENT FOR INCARCERATED POPULATION**

1. Provide evidence-based treatment and recovery support, including MAT for persons with OUD and co-occurring SUD/MH disorders within and transitioning out of the criminal justice system; and

2. Increase funding for jails to provide treatment to inmates with OUD.

G. **PREVENTION PROGRAMS**

1. Funding for media campaigns to prevent opioid use (similar to the FDA's "Real Cost" campaign to prevent youth from misusing tobacco);

2. Funding for evidence-based prevention programs in schools;

3. Funding for medical provider education and outreach regarding best prescribing practices for opioids consistent with the 2016 CDC guidelines, including providers at hospitals (academic detailing);

4. Funding for community drug disposal programs; and

5. Funding and training for first responders to participate in pre-arrest diversion programs, post-overdose response teams, or similar strategies that connect at-risk individuals to behavioral health services and supports.

H. **EXPANDING SYRINGE SERVICE PROGRAMS**

1. Provide comprehensive syringe services programs with more wrap-around services, including linkage to OUD treatment, access to sterile syringes and linkage to care and treatment of infectious diseases.

I. **EVIDENCE-BASED DATA COLLECTION AND RESEARCH ANALYZING THE EFFECTIVENESS OF THE ABATEMENT STRATEGIES WITHIN THE STATE**

Schedule B
Approved Uses

Support treatment of Opioid Use Disorder (OUD) and any co-occurring Substance Use Disorder or Mental Health (SUD/MH) conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

PART ONE: TREATMENT

A. TREAT OPIOID USE DISORDER (OUD)

Support treatment of Opioid Use Disorder ("*OUD*") and any co-occurring Substance Use Disorder or Mental Health ("*SUD/MH*") conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:[2]

1. Expand availability of treatment for OUD and any co-occurring SUD/MH conditions, including all forms of Medication-Assisted Treatment ("*MAT*") approved by the U.S. Food and Drug Administration.

2. Support and reimburse evidence-based services that adhere to the American Society of Addiction Medicine ("*ASAM*") continuum of care for OUD and any co-occurring SUD/MH conditions.

3. Expand telehealth to increase access to treatment for OUD and any co-occurring SUD/MH conditions, including MAT, as well as counseling, psychiatric support, and other treatment and recovery support services.

4. Improve oversight of Opioid Treatment Programs ("*OTPs*") to assure evidence-based or evidence-informed practices such as adequate methadone dosing and low threshold approaches to treatment.

5. Support mobile intervention, treatment, and recovery services, offered by qualified professionals and service providers, such as peer recovery coaches, for persons with OUD and any co-occurring SUD/MH conditions and for persons who have experienced an opioid overdose.

6. Provide treatment of trauma for individuals with OUD (*e.g.*, violence, sexual assault, human trafficking, or adverse childhood experiences) and family members (*e.g.*, surviving family members after an overdose or overdose fatality), and training of health care personnel to identify and address such trauma.

7. Support evidence-based withdrawal management services for people with OUD and any co-occurring mental health conditions.

[2] As used in this Schedule B, words like "expand," "fund," "provide" or the like shall not indicate a preference for new or existing programs.

8. Provide training on MAT for health care providers, first responders, students, or other supporting professionals, such as peer recovery coaches or recovery outreach specialists, including telementoring to assist community-based providers in rural or underserved areas.

9. Support workforce development for addiction professionals who work with persons with OUD and any co-occurring SUD/MH conditions.

10. Offer fellowships for addiction medicine specialists for direct patient care, instructors, and clinical research for treatments.

11. Offer scholarships and supports for behavioral health practitioners or workers involved in addressing OUD and any co-occurring SUD/MH or mental health conditions, including, but not limited to, training, scholarships, fellowships, loan repayment programs, or other incentives for providers to work in rural or underserved areas.

12. Provide funding and training for clinicians to obtain a waiver under the federal Drug Addiction Treatment Act of 2000 ("*DATA 2000*") to prescribe MAT for OUD, and provide technical assistance and professional support to clinicians who have obtained a DATA 2000 waiver.

13. Disseminate of web-based training curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service–Opioids web-based training curriculum and motivational interviewing.

14. Develop and disseminate new curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service for Medication–Assisted Treatment.

B. SUPPORT PEOPLE IN TREATMENT AND RECOVERY

Support people in recovery from OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the programs or strategies that:

1. Provide comprehensive wrap-around services to individuals with OUD and any co-occurring SUD/MH conditions, including housing, transportation, education, job placement, job training, or childcare.

2. Provide the full continuum of care of treatment and recovery services for OUD and any co-occurring SUD/MH conditions, including supportive housing, peer support services and counseling, community navigators, case management, and connections to community-based services.

3. Provide counseling, peer-support, recovery case management and residential treatment with access to medications for those who need it to persons with OUD and any co-occurring SUD/MH conditions.

4. Provide access to housing for people with OUD and any co-occurring SUD/MH conditions, including supportive housing, recovery housing, housing assistance programs, training for housing providers, or recovery housing programs that allow or integrate FDA-approved mediation with other support services.

5. Provide community support services, including social and legal services, to assist in deinstitutionalizing persons with OUD and any co-occurring SUD/MH conditions.

6. Support or expand peer-recovery centers, which may include support groups, social events, computer access, or other services for persons with OUD and any co-occurring SUD/MH conditions.

7. Provide or support transportation to treatment or recovery programs or services for persons with OUD and any co-occurring SUD/MH conditions.

8. Provide employment training or educational services for persons in treatment for or recovery from OUD and any co-occurring SUD/MH conditions.

9. Identify successful recovery programs such as physician, pilot, and college recovery programs, and provide support and technical assistance to increase the number and capacity of high-quality programs to help those in recovery.

10. Engage non-profits, faith-based communities, and community coalitions to support people in treatment and recovery and to support family members in their efforts to support the person with OUD in the family.

11. Provide training and development of procedures for government staff to appropriately interact and provide social and other services to individuals with or in recovery from OUD, including reducing stigma.

12. Support stigma reduction efforts regarding treatment and support for persons with OUD, including reducing the stigma on effective treatment.

13. Create or support culturally appropriate services and programs for persons with OUD and any co-occurring SUD/MH conditions, including new Americans.

14. Create and/or support recovery high schools.

15. Hire or train behavioral health workers to provide or expand any of the services or supports listed above.

C. CONNECT PEOPLE WHO NEED HELP TO THE HELP THEY NEED (CONNECTIONS TO CARE)

Provide connections to care for people who have—or are at risk of developing—OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:

1. Ensure that health care providers are screening for OUD and other risk factors and know how to appropriately counsel and treat (or refer if necessary) a patient for OUD treatment.

2. Fund SBIRT programs to reduce the transition from use to disorders, including SBIRT services to pregnant women who are uninsured or not eligible for Medicaid.

3. Provide training and long-term implementation of SBIRT in key systems (health, schools, colleges, criminal justice, and probation), with a focus on youth and young adults when transition from misuse to opioid disorder is common.

4. Purchase automated versions of SBIRT and support ongoing costs of the technology.

5. Expand services such as navigators and on-call teams to begin MAT in hospital emergency departments.

6. Provide training for emergency room personnel treating opioid overdose patients on post-discharge planning, including community referrals for MAT, recovery case management or support services.

7. Support hospital programs that transition persons with OUD and any co-occurring SUD/MH conditions, or persons who have experienced an opioid overdose, into clinically appropriate follow-up care through a bridge clinic or similar approach.

8. Support crisis stabilization centers that serve as an alternative to hospital emergency departments for persons with OUD and any co-occurring SUD/MH conditions or persons that have experienced an opioid overdose.

9. Support the work of Emergency Medical Systems, including peer support specialists, to connect individuals to treatment or other appropriate services following an opioid overdose or other opioid-related adverse event.

10. Provide funding for peer support specialists or recovery coaches in emergency departments, detox facilities, recovery centers, recovery housing, or similar settings; offer services, supports, or connections to care to persons with OUD and any co-occurring SUD/MH conditions or to persons who have experienced an opioid overdose.

11. Expand warm hand-off services to transition to recovery services.

12. Create or support school-based contacts that parents can engage with to seek immediate treatment services for their child; and support prevention, intervention, treatment, and recovery programs focused on young people.

13. Develop and support best practices on addressing OUD in the workplace.

14. Support assistance programs for health care providers with OUD.

15. Engage non-profits and the faith community as a system to support outreach for treatment.

16. Support centralized call centers that provide information and connections to appropriate services and supports for persons with OUD and any co-occurring SUD/MH conditions.

D. ADDRESS THE NEEDS OF CRIMINAL JUSTICE-INVOLVED PERSONS

Address the needs of persons with OUD and any co-occurring SUD/MH conditions who are involved in, are at risk of becoming involved in, or are transitioning out of the criminal justice system through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:

1. Support pre-arrest or pre-arraignment diversion and deflection strategies for persons with OUD and any co-occurring SUD/MH conditions, including established strategies such as:

    1. Self-referral strategies such as the Angel Programs or the Police Assisted Addiction Recovery Initiative ("*PAARI*");

    2. Active outreach strategies such as the Drug Abuse Response Team ("*DART*") model;

    3. "Naloxone Plus" strategies, which work to ensure that individuals who have received naloxone to reverse the effects of an overdose are then linked to treatment programs or other appropriate services;

    4. Officer prevention strategies, such as the Law Enforcement Assisted Diversion ("*LEAD*") model;

    5. Officer intervention strategies such as the Leon County, Florida Adult Civil Citation Network or the Chicago Westside Narcotics Diversion to Treatment Initiative; or

    6. Co-responder and/or alternative responder models to address OUD-related 911 calls with greater SUD expertise.

2. Support pre-trial services that connect individuals with OUD and any co-occurring SUD/MH conditions to evidence-informed treatment, including MAT, and related services.

3. Support treatment and recovery courts that provide evidence-based options for persons with OUD and any co-occurring SUD/MH conditions.

4. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are incarcerated in jail or prison.

5. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are leaving jail or prison or have recently left jail or prison, are on probation or parole, are under community corrections supervision, or are in re-entry programs or facilities.

6. Support critical time interventions ("*CTI*"), particularly for individuals living with dual-diagnosis OUD/serious mental illness, and services for individuals who face immediate risks and service needs and risks upon release from correctional settings.

7. Provide training on best practices for addressing the needs of criminal justice-involved persons with OUD and any co-occurring SUD/MH conditions to law enforcement, correctional, or judicial personnel or to providers of treatment, recovery, harm reduction, case management, or other services offered in connection with any of the strategies described in this section.

E. ADDRESS THE NEEDS OF PREGNANT OR PARENTING WOMEN AND THEIR FAMILIES, INCLUDING BABIES WITH NEONATAL ABSTINENCE SYNDROME

Address the needs of pregnant or parenting women with OUD and any co-occurring SUD/MH conditions, and the needs of their families, including babies with neonatal abstinence syndrome ("*NAS*"), through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:

1. Support evidence-based or evidence-informed treatment, including MAT, recovery services and supports, and prevention services for pregnant women—or women who could become pregnant—who have OUD and any co-occurring SUD/MH conditions, and other measures to educate and provide support to families affected by Neonatal Abstinence Syndrome.

2. Expand comprehensive evidence-based treatment and recovery services, including MAT, for uninsured women with OUD and any co-occurring SUD/MH conditions for up to 12 months postpartum.

3. Provide training for obstetricians or other healthcare personnel who work with pregnant women and their families regarding treatment of OUD and any co-occurring SUD/MH conditions.

4. Expand comprehensive evidence-based treatment and recovery support for NAS babies; expand services for better continuum of care with infant-need dyad; and expand long-term treatment and services for medical monitoring of NAS babies and their families.

5. Provide training to health care providers who work with pregnant or parenting women on best practices for compliance with federal requirements that children born with NAS get referred to appropriate services and receive a plan of safe care.

6. Provide child and family supports for parenting women with OUD and any co-occurring SUD/MH conditions.

7. Provide enhanced family support and child care services for parents with OUD and any co-occurring SUD/MH conditions.

8. Provide enhanced support for children and family members suffering trauma as a result of addiction in the family; and offer trauma-informed behavioral health treatment for adverse childhood events.

9. Offer home-based wrap-around services to persons with OUD and any co-occurring SUD/MH conditions, including, but not limited to, parent skills training.

10. Provide support for Children's Services—Fund additional positions and services, including supportive housing and other residential services, relating to children being removed from the home and/or placed in foster care due to custodial opioid use.

PART TWO: PREVENTION

F. PREVENT OVER-PRESCRIBING AND ENSURE APPROPRIATE PRESCRIBING AND DISPENSING OF OPIOIDS

Support efforts to prevent over-prescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Funding medical provider education and outreach regarding best prescribing practices for opioids consistent with the Guidelines for Prescribing Opioids for Chronic Pain from the U.S. Centers for Disease Control and Prevention, including providers at hospitals (academic detailing).

2. Training for health care providers regarding safe and responsible opioid prescribing, dosing, and tapering patients off opioids.

3. Continuing Medical Education (CME) on appropriate prescribing of opioids.

4. Providing Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.

5. Supporting enhancements or improvements to Prescription Drug Monitoring Programs ("*PDMPs*"), including, but not limited to, improvements that:

1. Increase the number of prescribers using PDMPs;

2. Improve point-of-care decision-making by increasing the quantity, quality, or format of data available to prescribers using PDMPs, by improving the interface that prescribers use to access PDMP data, or both; or

3. Enable states to use PDMP data in support of surveillance or intervention strategies, including MAT referrals and follow-up for individuals identified within PDMP data as likely to experience OUD in a manner that complies with all relevant privacy and security laws and rules.

6. Ensuring PDMPs incorporate available overdose/naloxone deployment data, including the United States Department of Transportation's Emergency Medical Technician overdose database in a manner that complies with all relevant privacy and security laws and rules.

7. Increasing electronic prescribing to prevent diversion or forgery.

8. Educating dispensers on appropriate opioid dispensing.

G. PREVENT MISUSE OF OPIOIDS

Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Funding media campaigns to prevent opioid misuse.

2. Corrective advertising or affirmative public education campaigns based on evidence.

3. Public education relating to drug disposal.

4. Drug take-back disposal or destruction programs.

5. Funding community anti-drug coalitions that engage in drug prevention efforts.

6. Supporting community coalitions in implementing evidence-informed prevention, such as reduced social access and physical access, stigma reduction—including staffing, educational campaigns, support for people in treatment or recovery, or training of coalitions in evidence-informed implementation, including the Strategic Prevention Framework developed by the U.S. Substance Abuse and Mental Health Services Administration ("*SAMHSA*").

7. Engaging non-profits and faith-based communities as systems to support prevention.

8. Funding evidence-based prevention programs in schools or evidence-informed school and community education programs and campaigns for students, families, school employees, school athletic programs, parent-teacher and student associations, and others.

9. School-based or youth-focused programs or strategies that have demonstrated effectiveness in preventing drug misuse and seem likely to be effective in preventing the uptake and use of opioids.

10. Create or support community-based education or intervention services for families, youth, and adolescents at risk for OUD and any co-occurring SUD/MH conditions.

11. Support evidence-informed programs or curricula to address mental health needs of young people who may be at risk of misusing opioids or other drugs, including emotional modulation and resilience skills.

12. Support greater access to mental health services and supports for young people, including services and supports provided by school nurses, behavioral health workers or other school staff, to address mental health needs in young people that (when not properly addressed) increase the risk of opioid or another drug misuse.

H. PREVENT OVERDOSE DEATHS AND OTHER HARMS (HARM REDUCTION)

Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Increased availability and distribution of naloxone and other drugs that treat overdoses for first responders, overdose patients, individuals with OUD and their friends and family members, schools, community navigators and outreach workers, persons being released from jail or prison, or other members of the general public.

2. Public health entities providing free naloxone to anyone in the community.

3. Training and education regarding naloxone and other drugs that treat overdoses for first responders, overdose patients, patients taking opioids, families, schools, community support groups, and other members of the general public.

4. Enabling school nurses and other school staff to respond to opioid overdoses, and provide them with naloxone, training, and support.

5. Expanding, improving, or developing data tracking software and applications for overdoses/naloxone revivals.

6. Public education relating to emergency responses to overdoses.

7. Public education relating to immunity and Good Samaritan laws.

8. Educating first responders regarding the existence and operation of immunity and Good Samaritan laws.

9. Syringe service programs and other evidence-informed programs to reduce harms associated with intravenous drug use, including supplies, staffing, space, peer support services, referrals to treatment, fentanyl checking, connections to care, and the full range of harm reduction and treatment services provided by these programs.

10. Expanding access to testing and treatment for infectious diseases such as HIV and Hepatitis C resulting from intravenous opioid use.

11. Supporting mobile units that offer or provide referrals to harm reduction services, treatment, recovery supports, health care, or other appropriate services to persons that use opioids or persons with OUD and any co-occurring SUD/MH conditions.

12. Providing training in harm reduction strategies to health care providers, students, peer recovery coaches, recovery outreach specialists, or other professionals that provide care to persons who use opioids or persons with OUD and any co-occurring SUD/MH conditions.

13. Supporting screening for fentanyl in routine clinical toxicology testing.

PART THREE: OTHER STRATEGIES

I. FIRST RESPONDERS

In addition to items in section C, D and H relating to first responders, support the following:

1. Education of law enforcement or other first responders regarding appropriate practices and precautions when dealing with fentanyl or other drugs.

2. Provision of wellness and support services for first responders and others who experience secondary trauma associated with opioid-related emergency events.

J. LEADERSHIP, PLANNING AND COORDINATION

Support efforts to provide leadership, planning, coordination, facilitations, training and technical assistance to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, the following:

1. Statewide, regional, local or community regional planning to identify root causes of addiction and overdose, goals for reducing harms related to the opioid epidemic, and areas and populations with the greatest needs for treatment

intervention services, and to support training and technical assistance and other strategies to abate the opioid epidemic described in this opioid abatement strategy list.

2. A dashboard to (a) share reports, recommendations, or plans to spend opioid settlement funds; (b) to show how opioid settlement funds have been spent; (c) to report program or strategy outcomes; or (d) to track, share or visualize key opioid- or health-related indicators and supports as identified through collaborative statewide, regional, local or community processes.

3. Invest in infrastructure or staffing at government or not-for-profit agencies to support collaborative, cross-system coordination with the purpose of preventing overprescribing, opioid misuse, or opioid overdoses, treating those with OUD and any co-occurring SUD/MH conditions, supporting them in treatment or recovery, connecting them to care, or implementing other strategies to abate the opioid epidemic described in this opioid abatement strategy list.

4. Provide resources to staff government oversight and management of opioid abatement programs.

K. TRAINING

In addition to the training referred to throughout this document, support training to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, those that:

1. Provide funding for staff training or networking programs and services to improve the capability of government, community, and not-for-profit entities to abate the opioid crisis.

2. Support infrastructure and staffing for collaborative cross-system coordination to prevent opioid misuse, prevent overdoses, and treat those with OUD and any co-occurring SUD/MH conditions, or implement other strategies to abate the opioid epidemic described in this opioid abatement strategy list (*e.g.*, health care, primary care, pharmacies, PDMPs, etc.).

L. RESEARCH

Support opioid abatement research that may include, but is not limited to, the following:

1. Monitoring, surveillance, data collection and evaluation of programs and strategies described in this opioid abatement strategy list.

2. Research non-opioid treatment of chronic pain.

3. Research on improved service delivery for modalities such as SBIRT that demonstrate promising but mixed results in populations vulnerable to opioid use disorders.

4. Research on novel harm reduction and prevention efforts such as the provision of fentanyl test strips.

5. Research on innovative supply-side enforcement efforts such as improved detection of mail-based delivery of synthetic opioids.

6. Expanded research on swift/certain/fair models to reduce and deter opioid misuse within criminal justice populations that build upon promising approaches used to address other substances (*e.g.*, Hawaii HOPE and Dakota 24/7).

7. Epidemiological surveillance of OUD-related behaviors in critical populations, including individuals entering the criminal justice system, including, but not limited to approaches modeled on the Arrestee Drug Abuse Monitoring ("*ADAM*") system.

8. Qualitative and quantitative research regarding public health risks and harm reduction opportunities within illicit drug markets, including surveys of market participants who sell or distribute illicit opioids.

9. Geospatial analysis of access barriers to MAT and their association with treatment engagement and treatment outcomes.

EXHIBIT D

SUBDIVISION SETTLEMENT PARTICIPATION FORM

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement and Release dated [_____], 2022, among Walmart (defined below), the State of Florida and its Office of the Attorney General ("*Walmart Settlement*"),[1] and acting through the undersigned authorized official, hereby elects to participate in the Walmart Settlement, release all Released Claims against all Releasees, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Walmart Settlement, understands that all terms in this Subdivision Settlement Participation Form have the meanings defined therein, and agrees that by signing this Subdivision Settlement Participation Form, the Governmental Entity elects to participate in the Walmart Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity shall immediately cease any and all litigation activities as to the Releasees and Released Claims and, within the later of 7 days following the entry of the Consent Judgment or 7 days of the Execution Date of this Subdivision Settlement Participation Form, voluntarily dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Walmart Settlement pertaining to Subdivisions as defined therein.

4. By agreeing to the terms of the Walmart Settlement and expressly agreeing to the Releases provided for therein, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date of the Release.

5. The Governmental Entity agrees to use any monies it receives through the Walmart Settlement solely for the purposes provided therein.

6. The Governmental Entity submits to the jurisdiction of the Court for purposes limited to the Court's role as provided in, and for resolving disputes to the extent provided in, the Walmart Settlement.

[1] The defined terms in the Walmart Settlement shall have the same meaning in this Subdivision Settlement Participation Form.

7. The Governmental Entity has the right to enforce those rights given to it in the Walmart Settlement.

8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Walmart Settlement, including, but not limited to, all provisions of Section D and E, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Releasee in any forum whatsoever. The releases provided for in the Walmart Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Releasees the broadest possible bar against any liability relating in any way to any Released Claims and extend to the full extent of the power of the Governmental Entity to release Claims. The Walmart Settlement shall be a complete bar to any Released Claim.

9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Walmart Settlement.

10. In connection with the releases provided for in the Walmart Settlement, the Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

    > **General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

    As a Releasor, the Governmental Entity may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but the Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date of the Release, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entity's decision to participate in the Walmart Settlement.

11. Nothing herein is intended to modify in any way the terms of the Walmart Settlement, to which the Governmental Entity hereby agrees. To the extent this Subdivision Settlement Participation Form is interpreted differently from the Walmart Settlement in any respect, the Walmart Settlement controls.

I have all necessary power and authorization to execute this Subdivision Settlement Participation Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

(the "Execution Date of this Subdivision Settlement Participation Form")

EXHIBIT E

Qualified Settlement Fund Administrator Terms

I. Definitions

A. This Qualified Settlement Fund Administrator Terms document incorporates all defined terms in the Settlement Agreement and the Escrow Agreement attached as Exhibit J to the Settlement Agreement (the "Escrow Agreement"), unless otherwise defined herein, and shall be interpreted in a manner consistent with the Settlement Agreement and Escrow Agreement to the greatest extent feasible.

B. *Settlement Fund Administrator*. Wilmington Trust, National Association ("Wilmington Trust" or "Settlement Fund Administrator") shall serve as the Settlement Fund Administrator and is intended to serve as an "administrator" as defined in *Treas. Reg*. § 1.468B-2(k)(3). In the event that Wilmington Trust becomes unable to continue to serve as the Settlement Fund Administrator, the Parties shall meet and confer and agree upon a replacement.

II. Establishment of the Settlement Fund Administrator

A. *Selection of the Settlement Fund Administrator.*

i. Wilmington Trust is selected as the Settlement Fund Administrator.

ii. The Qualified Settlement Fund ("QSF") is being established pursuant to order of the Court to resolve or satisfy one or more contested claims that have resulted or may result from an event (or a related series of events) that has occurred and that is alleged to have given rise to at least one claim asserting liability arising out of a tort, breach of contract or violation of law. The QSF is subject to the continuing jurisdiction of the Court and is intended to qualify as a "qualified settlement fund" as defined in *Treas. Reg.* § 1.468B-1(a). The purpose of the QSF includes, but is not necessarily limited to, (i) receiving, holding, and investing the payment to be made by Walmart under the Settlement Agreement, and (ii) distributing amounts in accordance with the Settlement Agreement and the Escrow Agreement. The duties of the Settlement Fund Administrator shall be to serve these purposes and are subject to the terms of the Escrow Agreement. The Settlement Fund Administrator shall manage the QSF in a manner designed to preserve principal and accrue income by investing in instruments/securities comprised of (a) United States Agency, Government Sponsored Enterprises or Treasury securities or obligations (or a mutual fund invested solely in such instruments); (b) cash equivalent securities including SEC registered money market funds and collateralized money market accounts; and/or (c) deposit and similar interest-bearing, or non-interest bearing accounts, and certificates of deposit subject to Federal Depository Insurance Corporation protections as available. The Settlement Fund Administrator shall hold and distribute the funds

deposited in the QSF as provided in the Settlement Agreement and subject to the procedural and security requirements set forth in sections 1.3 to 1.5 of the Escrow Agreement.

iii. The term of the Settlement Fund Administrator shall continue until all funds are distributed pursuant to the terms of the Settlement Agreement unless the Settlement Fund Administrator is removed pursuant to the Escrow Agreement.

B. *Governance of the Settlement Fund Administrator.*

i. The Settlement Fund Administrator will administer and disburse funds from the Abatement Accounts Sub-Fund, State Sub-Fund, Subdivision Sub-Fund and State and Subdivision Litigation Costs Sub-Funds as provided in the Settlement Agreement and subject to the procedural and security requirements set forth in sections 1.3 to 1.5 of the Escrow Agreement. The Settlement Fund Administrator will also perform other duties as described in these terms and in the Settlement Agreement.

ii. All parties to the Settlement Agreement are entitled to rely upon information received from the Settlement Fund Administrator, whether in oral, written, or other form. On Walmart's request, the State will instruct the Settlement Fund Administrator to promptly provide statements setting forth the activity in the QSF to Walmart. The State shall also notify Walmart regarding any payments or expenses paid from the QSF upon receipt of a request for such information from Walmart. No Party to the Settlement Agreement shall have any liability (whether direct or indirect, in contract or tort or otherwise) to any other party for or in connection with any action taken or not taken by the Settlement Fund Administrator, except as between the State and the Settlement Fund Administrator to the extent provided for in the Escrow Agreement.

C. *Removal of the Settlement Fund Administrator*.

i. The Settlement Fund Administrator may be removed pursuant to the Escrow Agreement or for failure to perform its duties.

ii. The terms of this Exhibit E shall apply to any replacement Settlement Fund Administrator.

D. *Funding of the Settlement Fund Administrator*.

i. The costs and fees associated with or arising out of the duties of the Settlement Fund Administrator shall be paid out of the State Sub-Fund.

ii. The costs and fees associated with the Settlement Fund Administrator shall be established in the Escrow Agreement.

III. Calculation and Allocation of Annual Payments

A. *General Principles.*

i. This Section is intended to implement the relevant provisions of the Settlement Agreement and the exhibits therein, including the Florida Opioid Allocation and Statewide Response Agreement. To the extent this Section III conflicts with the Settlement Agreement and the exhibits therein, the Settlement Agreement shall control.

ii. With respect to the payment instructions to be provided by the State as described in the following subsection III.B, the Settlement Fund Administrator is entitled to rely upon the State's instructions, provided in written form and copied to Walmart, for the purpose for which it was submitted, provided that neither Walmart nor any Participation Subdivision has objected to those instructions pursuant to the procedures described in the following subsection III.B.

B. *Payments*

i. The State shall calculate the distributions due to Participating Subdivisions and shall provide those calculations to the Participating Subdivisions and Walmart in advance of the payment date. Notice as to Walmart shall be made in accordance with subsection G.7 of the Agreement and notice as to Participating Subdivisions shall be made as instructed by each Participating Subdivision.

ii. Objections to distributions proposed to be made by the State may be made within seven (7) calendar days of receipt of notice by sending a written objection by email to the following addresses: john.guard@myfloridalegal.com; greg.slemp@myfloridalegal.com; sabrina.donovan@myfloridalegal.com. In the event the email address to which objections are to be sent changes, the State shall notify Walmart and the Participating Subdivision of such change, and any deadline to provide an objection shall be suspended until the State has confirmed Walmart and the Participating Subdivisions' receipt of such notice.

iii. In connection with the notice, the State shall request from each Participating Subdivision: (i) a completed IRS Form W-9, and (ii) instructions concerning how the subdivision wishes to be paid (check or wire), and, if applicable, wiring instructions or the address where the payment should be mailed. Any costs for the form of payment to the Participating Subdivision shall be deducted from the calculated settlement payment.

iv. In the absence of any timely objection, the State's proposed calculations shall be final, and the State shall provide the final calculations to the Settlement Fund Administrator along with the IRS Form W-9s, payment instructions, and other required information under the Escrow Agreement and direct the Settlement Fund Administrator to pay those amounts in accordance with the Escrow Agreement.

v. In all events, the State shall provide notice to Walmart in the event of any objection regarding the distribution of any payment and, at its option, Walmart may elect to join any objection that is made by a Participating

Subdivision. In the case of any objection, whether by Walmart or a Participating Subdivision, the State and the entity or entities (including Walmart, if applicable) objecting to the payment shall resolve that objection. If that resolution made by one entity affects other entities (including Walmart, if applicable), the State shall provide notice to those affected and resolve the objection in accordance with the Settlement Agreement or the Florida Opioid Allocation and Statewide Response Agreement.

vi. Pending the resolution of any objections as provided above, the State may provide instructions to the Settlement Fund Administrator to pay any undisputed portion. Before doing so, it shall provide notice to Walmart and the Participating Subdivisions of the dispute and a breakdown of the proposed partial payments. Upon such notice, Walmart and the Participating Subdivisions shall have an opportunity to object to the proposed partial payments in accordance with the procedures outlined in the foregoing subsections.

vii. In consultation with the State, and subject to the terms of the Settlement Agreement, the Settlement Fund Administrator may set reasonable limits on the frequency with which it makes payments and may set other reasonable restrictions on complying with requests made by the State or the Participating Subdivisions, to limit the burdens and costs imposed on the Settlement Fund Administrator.

C. *Extensions.*

i. The schedule provided for in this Section III shall be adjusted based on what is practicable. The Settlement Fund Administrator shall provide notice to the State and Walmart regarding whether the deadlines provided for in Section III or in the Escrow Agreement need to be adjusted. The State shall communicate that notice to the Participating Subdivisions.

ii. The deadlines in this Section III may be extended by the written agreement of the State and Walmart.

IV. Reporting Obligations

The Settlement Fund is intended to be classified as a "qualified settlement fund" within the meaning of Treasury regulations Section 1.468B-1, et seq. (and corresponding or similar provisions of state, local, or foreign law, as applicable). The Settlement Fund Administrator shall not take any action or tax position inconsistent with such treatment. The State shall obtain any necessary orders from the Court to qualify the Settlement Fund as a "qualified settlement fund." The Settlement Fund Administrator shall promptly take all other steps necessary for qualifying and operating the QSF as a "qualified settlement fund" within the meaning of Treas. Reg. § 1.468B-1. These obligations include, without limitation, the following:

i. Regulation § 1.468B-3 Statement. The Settlement Fund Administrator will prepare a "Regulation § 1.468B-3 Statement" pursuant to Treas. Reg. § 1.468B-3(e) on behalf of Walmart and provide copies to Walmart's

counsel for review and approval by January 15 of each year pertaining to transfers to or from the Settlement Fund involving Walmart that were made in the preceding calendar year. The "Regulation § 1.468B-3 Statement" may be a joint statement as permitted under Treas. Reg. § 1.468B-3(e)(2)(ii).

ii. Regulation § 1.468B-1 Relation Back Election. If required, the Settlement Fund Administrator will prepare and attach to the income tax return of the QSF a "Regulation § 1.468B-1 Relation Back Election" pursuant to Treas. Reg. § 1.468B-1(j) for approval and execution by Walmart and the Settlement Fund Administrator. The Settlement Fund Administrator will forward a copy of the "Regulation § 1.468B-1 Relation Back Election" to Walmart promptly after filing the same.

iii. Income Tax Returns. The Settlement Fund Administrator shall obtain federal (and, if applicable, state) taxpayer identification number(s) for the Settlement Fund and provide the same to Walmart. The Settlement Fund Administrator shall also timely and properly prepare and file on behalf of the QSF: (i) federal tax, information and withholding returns in accordance with Treas. Reg. § 1.468B-2 and the other provisions of the Internal Revenue Code of 1986, as amended; and (ii) all necessary state and local tax returns.

iv. Tax Detriment. Notwithstanding any effort or failure of the Settlement Fund Administrator and/or the parties hereto to treat the QSF as a "qualified settlement fund" within the meaning of Treas. Reg. § 1.468B-1 effective as of the date hereof, if Walmart incurs any taxes or additional tax liability, interest, penalties or other tax-related losses of any kind (such tax liability, interest, penalties and/or losses hereinafter collectively referred to as "Tax Detriments") resulting from income earned by the QSF, such Tax Detriment shall be paid out of the State Sub-Fund or the Abatement Accounts Sub-Fund of the QSF, as the State may direct, or in the absence of sufficient funds in these Sub-Funds or at the State's option, by the State.

v. Notwithstanding any other provision of this Exhibit E or the Settlement Agreement, the parties hereto acknowledge and agree that Walmart has made no representations or warranties regarding the tax consequences and shall have no liability to the State, the Settlement Fund Administrator, the Participating Subdivisions or any other party with respect to matters related to such tax consequences. Further, the Settlement Agreement, including this Exhibit E, shall be binding on the Parties and the Settlement Fund Administrator, and shall continue to apply, notwithstanding the tax consequences of any payments made pursuant to the Settlement Agreement and this Exhibit E.

EXHIBIT F

INJUNCTIVE RELIEF

I. INTRODUCTION

A. Within 90 days of the Effective Date of the Settlement Agreement and Release (as defined in the Settlement Agreement and Release, the "Effective Date") (except where this Agreement specifies a different implementation period), Walmart Inc. ("Walmart" or the "Settling Pharmacy") shall implement the terms set forth in this Agreement (the "Settlement Terms").

B. To the extent that the Settling Pharmacy already has in place committees, departments, policies or programs that satisfy the terms of this Agreement, no re-naming is required by this Agreement.

C. Overview

1. The Settling Pharmacy will implement or maintain a Controlled Substance Compliance Program ("CSCP").

2. The CSCP must include written standard operating procedures and/or corporate policies (the "CSCP Policies and Procedures") required by this Agreement.

3. The CSCP shall apply during the term of this Agreement to each of the Settling Pharmacy's retail pharmacy stores within the State of Florida.

4. The Settling Pharmacy shall provide a copy of the relevant CSCP Policies and Procedures to the State within 90 days of the Effective Date. To the extent any implementation is expected to require additional time, the parties agree to work together in good faith to establish a timeline for implementation.

D. Compliance with Laws

1. The Settling Pharmacy acknowledges and agrees that its retail pharmacies must comply with applicable federal and Florida state laws, including regarding the dispensing of Controlled Substances. The requirements of the Settlement Terms are in addition to, and not in lieu of, any other requirements of federal or Florida state law. Nothing in the Settlement Terms shall be construed as relieving the Settling Pharmacy of the obligation of its retail pharmacies to comply with all federal and Florida state and local laws, nor shall any of the provisions of the Settlement Terms be deemed as permission for the Settling Pharmacy to engage in any acts or practices prohibited by such laws.

2. The Settlement Terms are not intended to and shall not be interpreted to prevent the Settling Pharmacy from taking or implementing any other compliance or policy steps necessary to address their retail pharmacies' conformity with local, state, and federal legal requirements. In the event that the Settling Pharmacy determines that there is a conflict between the Settlement Terms and the requirements of federal, state, or local laws, such that the Settling

Pharmacy determines that it cannot comply with the Settlement Terms without violating these requirements, the Settling Pharmacy shall document such conflicts and notify the State that it intends to comply with the law to the extent necessary to eliminate the conflict. Within thirty (30) days after receipt of a notification from the Settling Pharmacy referenced above, the State may request a meeting to discuss the conflict and the Settling Pharmacy shall comply with any such reasonable request. Nothing in this paragraph shall (i) limit the right of the State to disagree with the Settling Pharmacy as to the impossibility of compliance and to seek to enforce the Settlement Terms accordingly; or (ii) be deemed to relieve the Settling Pharmacy from following any subsequently enacted law that is more restrictive than the provisions of the Settlement Terms, or from following the Settlement Terms if they are more restrictive than applicable laws, to the extent the Settling Pharmacy can adhere to both the Settlement Terms and the provisions of local, state or federal law.

3. In the event that the State learns of any action, administrative or otherwise, to be commenced against the Settling Pharmacy, any of its retail pharmacies, or its pharmacy personnel as a result of the Settling Pharmacy's obligations under this Agreement—including but not limited to actions brought by State Boards of Medicine and Pharmacy or the State Department of Health—the State will make best efforts to intervene and seek dismissal or to otherwise assist in achieving resolution, including by certifying that the State's position is that the Settling Pharmacy should not be held liable for actions required by this Agreement.

4. The Settling Pharmacy shall retain all records it is required to create pursuant to its obligations hereunder in an electronic or otherwise easily accessible format for the term of this Agreement. Nothing in this Agreement shall waive any applicable privilege that may be asserted over any such record.

II. TERM AND SCOPE

A. The term of the Agreement shall be ten years from the Effective Date, unless otherwise specified herein.

B. The Settlement Terms shall apply to the Settling Pharmacy's operation of any retail pharmacy store within the State of Florida that dispense Controlled Substances to Patients.

III. DEFINITIONS

A. The term "Controlled Substances" means those substances designated under schedules II-V pursuant to the federal Controlled Substances Act and the laws and regulations of the State that incorporate the federal Controlled Substances Act.

B. The term "Designated Controlled Substances" shall include: (a) oxycodone; (b) hydrocodone; (c) hydromorphone; (d) oxymorphone; (e) morphine; (f) methadone; and (g) fentanyl.

C. The term "Prescriber" means any individual that has written a prescription, whether legally valid or not, that is presented to one of the Settling Pharmacy's retail pharmacy stores in the State of Florida.

D. The term "Patient" means any individual who receives a prescription for a Designated Controlled Substance from a Prescriber, whether legally valid or not, and attempts to fill it at one of the Settling Pharmacy's retail pharmacy stores in the State of Florida.

IV. CONTROLLED SUBSTANCE COMPLIANCE PERSONNEL

A. The Settling Pharmacy shall designate a Chief Controlled Substance Compliance Officer, or other appropriately titled position, to be a member of the Controlled Substance Compliance Committee (described below in Section VI), and to oversee a Controlled Substance Compliance Department and the Settling Pharmacy's compliance with these Settlement Terms. As used in this agreement, the terms "Controlled Substance Compliance Committee" and "Controlled Substance Compliance Department" refer to the entity or entities, however titled, that carry out the functions required by this Agreement. Notwithstanding the preceding sentence, to the extent an existing position, committee or department carries out the functions required by this Agreement, any other functions undertaken by such position, committee or department shall not be subject to this Agreement or oversight by the State pursuant to this Agreement. The position, committee and department discussed in this subsection and below may bear different names and need not be limited to the roles and functions set forth herein.

B. The Chief Controlled Substance Compliance Officer shall have knowledge of and experience with the laws and regulation of Controlled Substances.

C. The Chief Controlled Substance Compliance Officer shall provide at least quarterly reports to the Controlled Substance Compliance Committee (described below in Section VI) regarding the Settling Pharmacy's compliance with these Settlement Terms, including the implementation of any changes to the CSCP Policies and Procedures required by these Settlement Terms.

D. Staffing levels of the Settling Pharmacy's Controlled Substance Compliance Department shall be reviewed periodically, but at least on an annual basis, by the Settling Pharmacy's Controlled Substance Compliance Committee, to assess whether such staffing levels are sufficient for the Controlled Substance Compliance Department to comply with this Agreement. This review shall include consideration of relevant developments in technology, law, and regulations.

E. Throughout the term of this Agreement, the Settling Pharmacy shall maintain a telephone and email hotline(s) (the "Hotline") to permit employees and/or Patients to anonymously report suspected inappropriate or illegitimate dispensing, prescribing or diversion of Designated Controlled Substances, violations of the CSCP Policies and Procedures, these Settlement Terms, the Settling Pharmacy's company policy, or other applicable law. The Settling Pharmacy shall publish its Hotline contact information to its employees and Patients in the State of Florida. The Settling Pharmacy shall maintain for the duration of this Agreement a record of each complaint made to the Hotline regarding Designated Controlled Substances and documentation regarding any investigation or response to such complaints. Nothing herein shall require the Settling Pharmacy to investigate a pharmacist's professional judgment to refuse a prescription that the pharmacist believes was prescribed or is being used for other than a legitimate medical purpose or

that the pharmacist believes was not prescribed by an individual Prescriber acting in the usual course of his or her professional practice.

V. INDEPENDENCE

A. The Settling Pharmacy's Controlled Substance Compliance Department personnel, the pharmacy personnel who work at the Settling Pharmacy's retail pharmacies within the State of Florida, and field personnel who supervise such pharmacy personnel (together, "CSCP Employees") shall not be compensated in whole or in part by commissions, bonuses, incentives or any other monetary or non-pecuniary benefit that depends in any part on revenue or profitability targets or expectations specific to sales of Controlled Substances. Nothing in this Agreement shall be interpreted to prevent compensation of employees based on sales volume, revenue or profitability targets/expectations for enterprise-, store-, or pharmacy-wide sales.

B. No CSCP Employees may be terminated, suspended, threatened with or face any other negative employment consequence for failing to meet any revenue or profitability targets/expectations specific to sales of Controlled Substances.

C. To the extent necessary to comply with this section, the Settling Pharmacy's Controlled Substance Compliance Committee shall review, modify, and implement any changes to any compensation and non-retaliation policies specific to the sale or dispensing of Designated Controlled Substances.

VI. OVERSIGHT

A. To the extent not already established, within ninety (90) business days of the Effective Date, the Settling Pharmacy shall establish a compliance committee, however titled, that includes representatives from its respective legal, compliance, pharmacy operations, and asset protection departments, however named, to provide oversight over the CSCP and its compliance with the Settlement Terms. For the purposes of reference herein, this committee, however named, shall be referred to as the "Controlled Substance Compliance Committee." The Settling Pharmacy shall maintain its Controlled Substance Compliance Committee for the duration of the term of the Settlement Terms. The Chief Controlled Substance Compliance Officer of the Settling Pharmacy shall be a member of the Controlled Substance Compliance Committee.

B. The Settling Pharmacy's Controlled Substance Compliance Committee shall have regular meetings during which the Chief Controlled Substance Compliance Officer shall report on, and the Controlled Substance Compliance Committee shall review, among other things, (a) the Prescription Validation Process, including the CSCP Policies and Procedures on identifying and resolving Patient, Prescriber and Prescription Red Flags; (b) the training required under this Agreement; (c) proactive due diligence and site visits; (d) the Prescriber Review Processes; (e) significant new national and regional diversion trends involving Controlled Substances; (f) the Settling Pharmacy's adherence to this Agreement and applicable laws and regulations; and (g) any technology, staffing, or other resource needs for the CSCP. The Controlled Substance Compliance Committee shall have access to all CSCP reports described in the following subsection.

C. On an annual basis, the Settling Pharmacy's Controlled Substance Compliance Committee shall provide a written report to the President of Walmart, Chief Financial Officer of Walmart, Chief Legal Officer of Walmart, and the Walmart Chief Compliance Officer, as well as the Walmart Health Compliance Committee (however such positions or committees are named at the time), outlining(a) the Settling Pharmacy's adherence to, and any deviations from, the Settlement Terms; (b) the allocation of resources sufficient to comply with this Agreement; and (c) any revisions to the CSCP that the Controlled Substance Compliance Committee has approved. The Compliance Committee shall document in its minutes its review of the annual Controlled Substance Compliance Committee reports.

D. The Settling Pharmacy, through its Controlled Substance Compliance Department and Committee, shall, at least once every year, review and oversee any enhancements to the CSCP Policies and Procedures and systems for dispensing activity that the Controlled Substance Compliance Committee deems necessary.

E. The Settling Pharmacy's Controlled Substance Compliance Committee shall be responsible for the approval of all material revisions to the CSCP Policies and Procedures, provided that nothing herein shall prevent the Settling Pharmacy from implementing changes to the CSCP Policies and Procedures pending such review and approval.

VII. MANDATORY TRAINING

A. The CSCP Policies and Procedures shall be published in a form and location readily accessible to all pharmacy and compliance personnel at each of the Settling Pharmacy's retail pharmacy stores in the State of Florida. Online availability is sufficient, so long as pharmacy and compliance personnel have access to a computer with access to the CSCP Policies and Procedures.

B. Within 90 days of entering into these Settlement Terms, to the extent not already in place, the Settling Pharmacy shall implement policies and procedures requiring all CSCP Employees to complete trainings on the CSCP Policies and Procedures required under this Agreement, including with respect to the Prescription Validation Process and their corresponding responsibility.

C. On an annual basis for the duration of the Agreement, the Settling Pharmacy shall test its CSCP Employees, and any contractors serving as pharmacists or pharmacy technicians in its retail pharmacies in the State of Florida, on their knowledge regarding the CSCP Policies and Procedures required under this Agreement, including with respect to the Prescription Validation Process and their corresponding responsibility.

D. It shall be a part of the CSCP Policies and Procedures and all trainings of all CSCP Employees required under these Settlement Terms that pharmacists shall refuse to dispense Controlled Substances that they believe were prescribed or are being used for other than a legitimate medical purpose or that they believe were not prescribed by an individual Prescriber acting in the usual course of his or her professional practice.

E. All trainings required under these Settlement Terms shall also make clear that pharmacists will not be penalized in any way for refusing to fill prescriptions for Controlled Substances pursuant to their corresponding responsibility.

VIII. THE PRESCRIPTION VALIDATION PROCESS

A. As part of its CSCP, to the extent not already in place, the Settling Pharmacy shall have a Prescription Validation Process in the CSCP Policies and Procedures, as further described and set forth in this section, that each pharmacist employed by the Settling Pharmacy at a retail pharmacy in the State of Florida is directed to follow when dispensing a prescription for a Controlled Substance.

B. The Settling Pharmacy's CSCP Policies and Procedures shall provide that a Red Flag will be considered "resolved" if, after further investigation as described below, and given other facts and circumstances surrounding the prescription, a pharmacist determines, in his or her professional judgment, that the facts that triggered the Red Flag do not lead him or her to believe that the prescription was written or is being submitted for an illegitimate medical purpose or outside the usual course of a Prescriber's professional practice.

C. The Settling Pharmacy's CSCP Policies and Procedures shall provide that if a pharmacist identifies any "Patient Red Flags" associated with a Controlled Substance prescription (described in Section IX(1) below), before filling the prescription the pharmacist must resolve them; and that the method of resolution falls within the judgment of the pharmacist and may include reviewing the Patient's profile and history with the Settling Pharmacy, calling the Prescriber or Prescribers if appropriate, speaking with the Patient if appropriate, calling on the pharmacist's pre-existing knowledge of the Patient or Prescriber, reviewing available PDMP data, and/or reviewing other data or information available to the pharmacist.

D. The Settling Pharmacy's CSCP Policies and Procedures shall provide that, except as allowed by Florida law, a pharmacist may only fill a Controlled Substance prescription electronically transmitted by a Prescriber for such drugs; that if the pharmacist identifies any other "Prescription Red Flags" (described in Section IX(2) below), the pharmacist must resolve them; and that the method of resolution falls within the judgment of the pharmacist and may include reviewing the Patient's profile and history with the Settling Pharmacy, calling the Prescriber or Prescribers if appropriate, speaking with the Patient if appropriate, calling on the pharmacists pre-existing knowledge of the Patient or Prescriber, reviewing available PDMP data, and/or reviewing other data or information available to the pharmacist.

E. The Settling Pharmacy must put in place, to the extent not already in place, systems at its retail pharmacies in the State of Florida to check the licensure status of a Prescriber of Controlled Substances through a regularly updated prescriber database, to the extent such information is reasonably available for such purposes. The dispensing system shall block a Controlled Substance prescription from being filled if the prescriber database check reflects a DEA registration or state license that has been suspended. CSCP Policies and Procedures shall require that if a pharmacist identifies any Prescriber Red Flags, the pharmacist must resolve them, and that

the method of resolution falls within the judgment of the pharmacist and may include reviewing the Settling Pharmacy's records regarding the Prescriber, calling the Prescriber if appropriate, speaking with the Patient if appropriate, calling on the pharmacist's pre-existing knowledge of the Patient or the Prescriber, reviewing available PDMP data, and/or reviewing other data or information available to the pharmacist .

F. The Settling Pharmacy's CSCP Policies and Procedures shall provide that the resolution of all Red Flags identified by the pharmacist must be documented. Any such records shall be maintained for the duration of this Agreement.

G. The Settling Pharmacy's CSCP Policies and Procedures shall provide that, even if all Red Flags are resolved, a pharmacist shall reject a prescription if, in his or her professional judgment, he or she believes that it was written or is being submitted for other than a legitimate medical purpose and/or was written outside the usual course of an individual Prescriber's professional practice.

IX. RED FLAGS

A. Notwithstanding any other potential Red Flags that the Settling Pharmacy may identify in its CSCP Policies and Procedures, the Settling Pharmacy shall identify in its CSCP Policies and Procedures the following potential "Patient Red Flags":

1. A Patient seeks to fill a Designated Controlled Substance prescription more than three days prior to the contemplated exhaustion date of an earlier prescription of the same Designated Controlled Substance;

2. A Patient seeks to fill Designated Controlled Substance prescriptions from more than four Prescribers, from separate practices, in a given 6-month period;

3. A Patient resides more than 50 miles from the Settling Pharmacy's retail pharmacy where the Designated Controlled Substance prescription is submitted;

B. Notwithstanding any other potential Red Flags that the Settling Pharmacy may identify in its CSCP Policies and Procedures, with respect to any Controlled Substance prescriptions, the Settling Pharmacy shall identify in its CSCP Policies and Procedures the following potential "Prescription Red Flags:"

1. A prescription that fails to meet the requirements of law, e.g. Fla. Stat. §§ 456.42(2), (3).

2. A prescription that appears altered;

3. A prescription written with misspellings suggesting the prescription may not have been written by a Prescriber; A prescription using atypical abbreviations suggesting the prescription may not have been written by a Prescriber; and

4. A prescription written with multiple colors of ink or in multiple different handwritings.

C. Notwithstanding any other potential Red Flags that the Settling Pharmacy may identify in its CSCP Policies and Procedures, with respect to any Prescriber of Controlled Substances, the Settling Pharmacy shall identify in their CSCP Policies and Procedures the following potential "Prescriber Red Flags:"

1. A Prescriber provides a Patient with prescriptions for a Designated Controlled Substance, a benzodiazepine, and carisoprodol; and

2. A Prescriber has no office within 50 miles of the retail pharmacy store.

X. PRESCRIBER REVIEW

A. To the extent not already in place, the Settling Pharmacy shall develop a process by which it regularly reviews the prescribing patterns and practices of Prescribers of Designated Controlled Substances (the "Prescriber Review Process"). The Prescriber Review Process shall employ algorithms, or other means, to review the Settling Pharmacy's retail dispensing data for potential Prescribers of concern. Once the Settling Pharmacy identifies through its process a Prescriber for further investigation, the review of a Prescriber shall include review of his or her prescribing as contained in the Settling Pharmacy's data and available licensing and disciplinary history. It may also include internet searches, interviews and other information gathered in the discretion of the employees operating the Prescriber Review Process.

B. If after the Prescriber Review Process the Settling Pharmacy has not resolved its concerns of illegitimate prescribing, then Controlled Substance prescriptions written by the Prescriber shall be blocked from being filled by the Settling Pharmacy's retail pharmacies in the State of Florida, with an opportunity at the discretion of the Settling Pharmacy for the prescriber to seek future reinstatement by providing information to the Settling Pharmacy that may resolve its concerns. This block shall be on top of and in addition to any block based on a Prescriber's licensure. The Settling Pharmacy shall provide the names of the doctors whose prescriptions it has blocked to the State Board of Medicine.

XI. PROACTIVE DUE DILIGENCE AND SITE VISITS

A. During the term of this Agreement, the Settling Pharmacy shall conduct periodic proactive compliance reviews of its retail pharmacy stores in the State of Florida to assist with the identification of potential compliance issues related to the dispensing of Designated Controlled Substances at its retail pharmacy stores in the State of Florida. This may be satisfied by the use of algorithms, or other electronic means, to analyze data associated with each pharmacy to identify particular pharmacies for review. Documentation of any resulting reviews shall be maintained by the Settling Pharmacy and made accessible to all Controlled Substance Compliance Department personnel upon request for the duration of the Agreement.

B. During the term of this Agreement, the Settling Pharmacy's field personnel shall also conduct site visits to each of its retail pharmacy stores in the State of Florida each year for the duration of the Agreement. Operating procedures shall specify that any concerns identified with the dispensing of Designated Controlled Substances shall be reported to the Controlled Substance

Compliance Department. The Controlled Substance Compliance Department shall maintain documentation of any such reported concerns.

C. During the term of this Agreement, to the extent not already in place, the Settling Pharmacy shall put in place processes to oversee inventory, recording keeping and theft and loss prevention controls at its retail pharmacy stores in the State of Florida.

D. The CSCP Policies and Procedures shall require that site visit reports, if any, related to the dispensing of Designated Controlled Substances shall be maintained by the Settling Pharmacy and made accessible to all Controlled Substance Compliance Department personnel upon request for the duration of the Agreement.

XII. CONTROLLED SUBSTANCE DISPOSAL

A. The Settling Pharmacy's retail pharmacies in the State of Florida shall make available or display information to all Patients receiving a Designated Controlled Substance about the need to dispose and the proper disposal of unneeded Controlled Substances and the availability of disposal boxes, pouches or containers for purchase from the Settling Pharmacy, or other products commercially manufactured to allow for the safe disposal of Controlled Substances and medications at home.

B. At each of its retail pharmacies in the State of Florida, the Settling Pharmacy shall make available to Patients at its actual cost (per generally accepted accounting principles) a pouch or other container or product commercially manufactured to allow for the safe disposal of Controlled Substances and medications at home. The Settling Pharmacy shall maintain sufficient written documentation supporting its actual cost for the duration of this Agreement.

XIII. NALOXONE DISPENSING

A. To the extent not already in place, the Settling Pharmacy agrees to obtain a non-patient-specific standing order covering each of its retail pharmacies in the State of Florida allowing for the dispensing of naloxone or other overdose reversal medications to the fullest extent allowable under Florida law.

XIV. To the extent that the State of Florida obtains or enters into an agreement with a manufacturer of naloxone or other overdose reversal medication to provide naloxone or an overdose reversal medication to the State for free or at cost, the Settling Pharmacy agrees to dispense that naloxone or other overdose reversal medication at its actual cost for dispensing that naloxone or other overdose reversal medication (time and expense). Upon request by the State to dispense such medication, in the course of arranging logistics with the State, the Settling Pharmacy shall provide the State with its calculation of the actual cost to dispense.

XV. FRAUD, THEFT AND LOSS PREVENTION

In addition to complying with all fraud, theft and loss procedures, policies and precautions required by state and federal law, the Settling Pharmacy shall maintain information regarding the receipt

and disposition of inventory of all Designated Controlled Substances for each retail pharmacy in the State of Florida.

XVI. REPORTING TO LAW ENFORCEMENT

To the extent not already in place, the Settling Pharmacy shall implement standard operating procedures directing its employees to report any confirmed forged prescriptions to state or local law enforcement authorities within 7 days of completing any review of such prescription or conduct. The State shall provide appropriate contact information for such reports. The Settling Pharmacy shall comply with all statutes and regulations requiring the reporting of thefts and losses of Controlled Substances.

XVII. ENFORCEMENT OF SETTLEMENT TERMS

A. Notice of Potential Violations and Opportunity to Cure.

1. A "Potential Violation" occurs when the State determines, after appropriate investigation and due diligence, that the Settling Pharmacy is not in substantial compliance with a material aspect of the Settlement Terms. A Potential Violation may be for a single retail pharmacy. A violation of this Agreement does not occur when a pharmacist or other pharmacy personnel employed by the Settling Pharmacy violates the Settling Pharmacy's CSCP Policies and Procedures or the law.

2. Potential Violation Discovered by State.

a. In the event of a Potential Violation identified by the State, the State shall notify the Settling Pharmacy in writing (the "State's Notice").

b. Within thirty (30) days of receipt of the State's Notice, the Settling Pharmacy shall provide a written response to the State. The response shall include the Settling Pharmacy's position as to the act(s) of non-compliance with these Settlement Terms, including, possibly, a statement setting forth why the Settling Pharmacy believes it is in substantial compliance with the relevant provision(s) or a statement explaining how the Potential Violation has been addressed.

c. If the State wishes to meet with the Settling Pharmacy, the Settling Pharmacy shall promptly make itself available for such a meeting.

3. If, after review of a written response and any meeting, the State believes that a Potential Violation is ongoing or has not been substantially addressed, it will provide written notice to the Settling Pharmacy and work in conjunction with the Settling Pharmacy to devise, within thirty (30) days, a corrective action plan ("Corrective Action Plan") to remedy such Potential Violation, including a reasonable period for implementation of such plan.

4. Within 60 and 120 days after implementing the Corrective Action Plan, the Settling Pharmacy will provide a written compliance update to the State and make itself available to meet with the State if requested. If after reviewing the compliance update and any meeting, the State believes a Potential Violation remains ongoing or has not been substantially addressed, the

State may commence a 30-day mediation period. If mediation fails to resolve the dispute between the parties, the State may take whatever action it deems necessary, including but not limited to bringing an action to enforce the settlement agreement, filing a new action (administrative or civil action) for violation of the settlement agreement as allowed by Florida law, conducting further investigation, or attempting to negotiate an updated Corrective Action Plan with the Settling Pharmacy. But the State may not seek to reinstate claims that have been released as part of this settlement.

5. If the Settling Pharmacy fails or refuses to provide a written response, to devise or implement a Corrective Action Plan or to provide a compliance update as required by subsections A(2), A(3) and/or A(4), the State may bring an action to enforce the settlement agreement, file a new action (administrative or civil action) for violation of the settlement agreement as allowed by Florida law, conduct further investigation, or attempt to negotiate an updated Corrective Action Plan with the Settling Pharmacy. But the State may not seek to reinstate claims that have been released as part of this settlement.

6. If, after review of a written response and any meeting, pursuant to subsection A(2) or A(3), above, the State concludes that a Potential Violation is not ongoing or has been substantially addressed, the State will provide written notice of this conclusion to the Settling Pharmacy within 30 days of reaching its conclusion.

B. Enforcement Action. The State agrees that prior to taking any court or administrative action, other than an action that the State concludes is necessary to address an immediate threat to the health, safety, or welfare of the citizens of the State, or that a public emergency requiring immediate action exists, it will follow the process outlined above. If the State concludes that action is necessary to address an immediate threat to the health, safety, or welfare of the citizens of the State or that a public emergency requiring immediate action exists, it will make best efforts to provide reasonable notice to the Settling Pharmacy prior to initiating any such action.

XVIII. COMPLIANCE CERTIFICATION

A. The Settling Pharmacy's Chief Controlled Substance Compliance Officer shall, after diligent inquiry, complete an annual compliance certification.

B. The certification shall be filed annually for the duration of this Agreement with the Florida Department of Health, the Florida Department of Business and Professional Regulation, and the Florida Office of Attorney General.

C. The certification shall state:

> "I understand the compliance requirements and responsibilities as they relate to [insert name of department], an area under my supervision. My job responsibilities include promoting compliance with regard to the [insert name of department] with all applicable statutory requirements, obligations of the Agreement, and applicable policies, and I have taken steps to promote such compliance. To the best of my knowledge, the [insert name of department] is in compliance with the obligations

of the Agreement. I understand that this certification is being provided to and relied upon by the State of Florida."

D. If the Chief Controlled Substance Compliance Officer is unable to provide such a certification, he or she shall provide a written explanation of the reasons why he or she is unable to provide the certification outlined above.

E. Upon written demand by the Florida Department of Health, the Florida Department of Business and Professional Regulation, or the Florida Office of Attorney General, the Settling Pharmacy shall provide to the requesting agency within a reasonable time after request the below materials. The State of Florida, through its agencies and departments, including without limitation the Florida Department of Health, has preexisting access to certain records maintained by Walmart retail pharmacies in the State of Florida and to certain data on their Controlled Substances dispensing. This provision is in addition to, and not in place of, that access.

1. Any specific, non-privileged documents reviewed by the Chief Controlled Substance Compliance Officer solely to make his/her certification, not including documents reviewed in the course of his/her duties throughout the year that provide him/her with relevant knowledge;

2. The current versions of the CSCP Policies and Procedures that are required by this Agreement;

3. The names of Florida prescribers of Designated Controlled Substances whose prescriptions the Settling Pharmacy has blocked as part of its Prescriber Review Process; or

4. With regard to a particular retail pharmacy store in the State of Florida identified by the State, any non-privileged reports related to that pharmacy store prepared pursuant to the processes outlined in Section XI.A.

F. Nothing in this Paragraph shall limit the State's authority to subpoena other records.

G. Nothing in this Agreement shall be interpreted to abrogate the Settling Pharmacy's applicable privileges or protections from disclosure, including without limitation those related to the attorney-client privilege, the attorney work product doctrine, and the patient-safety work product privilege. Nothing in this Agreement shall require the Settling Pharmacy to provide or produce any such privileged or protected materials.

H. To the extent that the above records contain personal health information of patients, the personal health information of patients shall be redacted and the presence of personal health information shall not be a reason to not produce any category of documents. To the extent that city, state, or zip code related information is contained within the above records and does not constitute personal health information of patients, the Settling Pharmacy shall provide such information upon written request.

XIX. RECORDKEEPING

The Settling Pharmacy shall retain records it is required to create pursuant to its obligations hereunder in an electronic or otherwise readily accessible format. In addition to the prescription data regularly provided to the State of Florida through its prescription drug monitoring program and all of the other records to which the State of Florida has access under its pharmacy regulations, including without limitation through its on-site inspections of retail pharmacies, the State of Florida shall have the right to review the CSCP Policies and Procedures discussed herein. Nothing in these terms shall prohibit the State of Florida from issuing a lawful subpoena for records pursuant to an applicable law.

XX. MOST FAVORED NATION

A. To the extent the Settling Pharmacy enters a global settlement resolving substantially all claims against it brought by states, counties, and/or municipalities nationwide that contains additional injunctive relief provisions, the State of Florida shall have the right to obtain the benefit of those provisions under the terms set forth in any such global settlement.

B. To the extent that the Settling Pharmacy agrees to take part in the Clearinghouse described in the Distributor Settlement Agreement as part of any global settlement as defined above, the Settling Pharmacy agrees to provide data and otherwise take part in the Clearinghouse with respect to Florida retail pharmacies at no reduction to any settlement amount under this Agreement.

XXI. CHANGES AND MODIFICATIONS

A. This Agreement may be amended or modified with the written consent of the Parties.

B. Nothing in this Agreement shall be construed to prohibit the Settling Pharmacy from implementing improvements or enhancements or from otherwise evolving its systems and practices.

EXHIBIT G

Litigating Subdivision	Local Litigation Cost Share
Alachua County	1.0580563941118500%
Apopka	0.1215329679172490%
Bay County	0.6743853947971450%
Bradenton	0.4749682718143620%
Bradford County	0.2368825999247740%
Brevard County	2.9841904994087900%
Broward County	5.0788659071877600%
Calhoun County	0.0589164770693348%
Clay County	1.4919590528781900%
Clearwater	0.7924203742280190%
Coconut Creek	0.1264292438193310%
Coral Springs	0.4043048184848150%
Daytona Beach	0.5595101817342350%
Daytona Beach Shores	0.0049121655318066%
Deerfield Beach	0.2530582429837640%
Deltona	0.2491902531195310%
Dixie County	0.1296956977011560%
Escambia County	1.2638929275031100%
Florida City	0.0049121655318066%
Fort Lauderdale	1.0383464434128300%
Fort Pierce	0.1994420924009210%
Gilchrist County	0.0804264958213678%
Gulf County	0.0749014445716371%
Hallandale Beach	0.1937104759647790%
Hamilton County	0.0599334133716682%
Hernando County	1.8878128582969600%
Jackson County	0.1986930098567910%
Holmes County	0.1020273124575380%
Homestead	0.0311731835713032%
Jackson County	0.1986930098567910%
Jacksonville	6.6203098069205700%
Lake County	0.9770487918320040%
Lauderhill	0.1804993838228590%
Lee County	2.6882938146892400%
Leon County	0.5890694329150050%
Levy County	0.3140267522345930%

Lynn Haven	0.0490126978571018%
Manatee County	2.8609845804763200%
Marion County	1.6654193307333400%
Miami	0.3660335103211090%
Miami Gardens	0.0508604347992879%
Miami-Dade County	5.4031323908059000%
Miramar	0.3491405639774380%
Monroe County	0.4854327279611400%
New Port Richey	0.1873705137049190%
Niceville	0.0271848865105896%
North Miami	0.0379784849873643%
Ocala	0.4612963804104470%
Ocoee	0.0832593898064393%
Okaloosa County	0.7932307453439410%
Orange County	3.9242890922912800%
Orlando	1.4504780395102400%
Ormond Beach	0.1433221901630030%
Osceola County	1.0466816891766000%
Oviedo	0.1289284555802000%
Palatka	0.0587008320945097%
Palm Bay	0.5060801668138730%
Palm Beach County	7.4561883184436100%
Palmetto	0.0660940498103573%
Panama City	0.1939647100403620%
Pasco County	5.5375586582705800%
Pembroke Pines	0.5786072467153300%
Pensacola	0.4133437478506440%
Pinellas County	5.9926126841466200%
Pinellas Park	0.3146192084285860%
Polk County	2.0023407694530500%
Pompano Beach	0.4193886169870580%
Port St. Lucie	0.4885607150696560%
Putnam County	0.4224712051535060%
Sanford	0.2053280652400960%
Santa Rosa County	0.8183885690911740%
Sarasota	0.6054198619009580%
Sarasota County	2.4612900245585600%
Seminole County	1.8860854285512600%
St. Augustine	0.0581446950541711%
St. Johns County	0.8298745014344930%

St. Lucie County	1.1954994212769900%
St. Petersburg	1.8209515663656500%
Stuart	0.1015415437774050%
Suwannee County	0.2387961653329590%
Sweetwater	0.0051459700834591%
Tallahassee	0.5325590997752980%
Tampa	2.4698749645037000%
Taylor County	0.1152406745465610%
Town of Eatonville	0.0049121655318066%
Union County	0.0814547818592183%
Volusia County	2.2307927858357100%
Walton County	0.3357365263317270%
Washington County	0.1501728905211320%

EXHIBIT H

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, WEST PASCO DIVISION
NEW PORT RICHEY, FLORIDA

STATE OF FLORIDA, OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS,

Plaintiff,

v. No. _____

WALMART INC.,

Defendant.

CONSENT JUDGMENT

Plaintiff, the State of Florida, Office of the Attorney General, Department of Legal Affairs ("Plaintiff" or "Florida AG"), brought the above-captioned action against Defendant Walmart Inc. ("Walmart") asserting claims against Walmart under the Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. §§ 501.201, *et seq.* and for common law public nuisance, all based on allegations that Walmart historically, among other acts, distributed and dispensed prescription opioid pain medication improperly in a fashion that has caused harm to the health of Florida residents and to the State (the "Florida AG Action"). Plaintiff brought the Florida AG Action in its sovereign capacity as the people's attorney in order to protect the public interest, including the interests of the State of Florida, its governmental subdivisions and its citizens.

In addition, numerous governmental entities in Florida ("Subdivisions") have brought separate lawsuits ("Actions") in various forums against Walmart, among others. These Actions assert claims that arise out of or relate to alleged conduct that is substantially similar to or overlaps with the conduct alleged in the Florida AG Action (the "Covered Conduct").

Walmart denies the allegations in the Florida AG Action and other Actions and claims to have no liability to Plaintiff or to any Subdivision or other governmental entity (whether such governmental entity has brought or is a party to another Action or not).

Walmart denies that it engaged in any wrongdoing, denies that it violated any federal or state law, denies that Plaintiff, any Subdivision, any other governmental entity, or any Florida resident was harmed by its conduct, denies all liability against Walmart arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Actions, contends that the factual allegations made in the Subdivisions' Actions relating to Walmart are false and materially inaccurate, and maintains that it has meritorious defenses and would be able to successfully defend against Plaintiff's claims and allegations at trial and any Subdivision's claims.

Plaintiff and Walmart (the "Parties"), by their counsel, have entered into a Settlement Agreement and Release to resolve the claims and allegations against Walmart in the Florida AG Action (the "Agreement," attached to this Consent Judgment) and the entry of this Consent Judgment (including the injunctive terms incorporated herein) by the Court without trial or findings or admissions of wrongdoing or liability of any kind. Furthermore, under the Agreement, and as effectuated in this Consent Judgment, the Florida AG is exercising its authority to act in the public interest and release its own Claims as well as those of all Subdivisions, whether asserted previously or in the future, that arise out of or relate to the Covered Conduct. Unless otherwise specified, capitalized terms used herein shall have the meanings specified in the Agreement.

NOW THEREFORE, without trial or adjudication of any issue of fact or law presented in the Florida AG Action or the other Actions, without this Consent Judgment constituting evidence against or admission by anyone with respect to any issue of fact or law, and upon the Parties' consent, IT IS HEREBY ORDERED AS FOLLOWS:

I. PARTIES

1. Defendant Walmart is a Delaware corporation with its principal place of business in Delaware.

2. Plaintiff has the authority to act in the public interest and on behalf of the people of Florida as the people's attorney.

II. JURISDICTION

3. This Court has jurisdiction over the Parties and the subject matter of this action and all city and county Litigating Subdivisions and all other Participating Subdivisions, each of which submits to the jurisdiction of the Court for purposes limited to the Court's role as provided in, and for resolving disputes to the extent provided in, the Walmart Settlement.

III. AGREEMENT

4. The Parties have agreed to resolution of the Florida AG Action under the terms of their Agreement, which is attached hereto as Exhibit A. This Consent Judgment summarizes and gives effect to those terms. In the event of a conflict between the terms of the Agreement (including its exhibits) and this summary document, the terms of the Agreement shall govern. Nothing in this summary document shall have the effect of expanding, diminishing, explaining, or otherwise modifying any term of the Agreement.

IV. FINANCIAL TERMS

5. Walmart shall pay the sum of $215,000,000 into the Qualified Settlement Fund as specified in the Agreement, consisting of (a) $187,937,062.10 to be allocated for Opioid Remediation, and (b) $27,062,937.87 consisting of (i) $7,752,403.81 to be paid to the Common Benefit Fund established by the Ongoing Common Benefit Order (Dkt. #4428) in *In re National Prescription Opiate Litigation*, case no. 1:17-md-2804, pending in the United States District Court for the Northern District of Ohio Eastern Division ("Common Benefit Fund Payment"); and (ii)

$19,310,534.06 to be divided by a subsequent agreement and disbursed as the Litigating Subdivision Litigation Cost Payment and State Cost Payment (collectively, the Litigating Subdivision Litigation Cost Payment and State Cost Payment are referred to as the "Cost Payments").

6. As contemplated by the Settlement Agreement, Plaintiff has filed a motion to establish a Qualified Settlement Fund and appoint a settlement fund administrator, which is contained in Exhibit B to this Consent Judgment, and a motion for State Litigation Costs, which is contained in Exhibit C to this Consent Judgment. The Court will enter separate orders with respect to these motions.

7. Subsection C.3(b) of the Parties' Agreement provides with respect to the portion of the payment to be allocated for opioid remediation that it shall be allocated by the Qualified Settlement Fund Administrator into three sub-funds: an Abatement Accounts Sub-Fund (also known as a regional fund), a State Sub-Fund, and a Subdivision Sub-Fund. Subsection C.1(a) of the Parties' Agreement provides that the amount to be available to reimburse State Litigation Costs shall be allocated by the Qualified Settlement Fund Administrator to a State Litigation Cost Payment Sub-Fund and that the amount to be available to reimburse Litigation Subdivision Litigation Costs shall be allocated by the Qualified Settlement Fund Administrator to a Litigating Subdivision Litigation Cost Sub-Fund. The Court approves the allocations set forth in the Agreement and the requirements governing distribution from each, the satisfaction of which will be determined at the appropriate time.

8. The Parties' Agreement provides that Subdivisions that elect to participate in the settlement by the Initial Participation Date and complete other requirements specified in the Agreement may be eligible to receive payment of a share of the Remediation Payment within a reasonable period after the Effective Date of the Agreement. The Parties' Agreement further

provides that Subdivisions that elect to participate in the settlement after the Initial Participation Date and complete other requirements specified in the Agreement may be eligible to receive payment of a share of the Remediation Payment within a reasonable period after the Post-Effective Date Sign-on Deadline.

9. The Parties previously agreed to an Initial Participation Date of _____. Pursuant to the Agreement's terms, the Effective Date of the Agreement is _____, and the Post-Effective Date Sign-on Deadline is _____.

V. INJUNCTIVE TERMS

10. The Parties have agreed that Walmart shall be subject to the injunctive terms set forth in Exhibit D to this Judgment. The agreed injunctive terms in Exhibit D to this Judgment are expressly incorporated into and are given full force and effect by this Consent Judgment.

11. Compliance with injunctive terms may be enforced in this Court consistent with the terms specified in the injunctive provisions set forth in Exhibit D to this Judgment.

VI. RELEASES AND DISMISSAL WITH PREJUDICE

12. Plaintiff and Walmart have agreed to the Release of certain Claims as provided in Sections B, D and E of the Agreement. Such Releases are given in good faith within the meaning of Fla. Stat. § 768.31(5) and upon entry of this Consent Judgment shall be effective as to all Releasors.

13. Plaintiff's Claims against Walmart are hereby DISMISSED WITH PREJUDICE, with each Party to bear its own costs except as specified in the Agreement.

VII. MISCELLANEOUS

14. This Court retains jurisdiction to enforce the terms of this Consent Judgment. The parties may jointly seek to modify the terms of this Consent Judgment, subject to the approval of this Court. This Consent Judgment may be modified only by order of this Court.

15. This Consent Judgment shall remain in full force and effect for eight years from the date it is entered, at which time Walmart's obligations under the Consent Judgment shall expire.

16. Entry of this Consent Judgment is in the public interest.

IT IS SO ORDERED, ADJUDGED AND DECREED in _____, Florida, this __ day of ____, 2022.

_____
Honorable _____
Circuit Court Judge

JOINTLY APPROVED AND
SUBMITTED FOR ENTRY:

WALMART INC.

By: _____

Name:_____

Title: _____

Date: _____

PLAINTIFF

STATE OF FLORIDA,
including the OFFICE OF THE
ATTORNEY GENERAL

By: _____

Name: John Guard
Chief Deputy Attorney General of Florida
Pursuant to the authority delegated to him by
Ashley Moody, Attorney General of Florida

Date: _____

EXHIBIT I

FLORIDA OPIOID ALLOCATION AND STATEWIDE RESPONSE AGREEMENT

BETWEEN

STATE OF FLORIDA DEPARTMENT OF LEGAL AFFAIRS,
OFFICE OF THE ATTORNEY GENERAL

And

CERTAIN LOCAL GOVERNMENTS IN THE STATE OF FLORIDA

This Florida Opioid Allocation and Statewide Response Agreement (the "Agreement") is entered into between the State of Florida ('State") and certain Local Governments ("Local Governments" and the State and Local Governments are jointly referred to as the "Parties" or individually as a "Party"). The Parties agree as follows:

Whereas, the people of the State and its communities have been harmed by misfeasance, nonfeasance and malfeasance committed by certain entities within the Pharmaceutical Supply Chain; and

Whereas, the State, through its Attorney General, and certain Local Governments, through their elected representatives and counsel, are separately engaged in litigation seeking to hold many of the same Pharmaceutical Supply Chain Participants accountable for the damage caused by their misfeasance, nonfeasance and malfeasance as the State; and

Whereas, certain of the Parties have separately sued Pharmaceutical Supply Chain participants for the harm caused to the citizens of both Parties and have collectively negotiated settlements with several Pharmaceutical Supply Chain Participants; and

Whereas, the Parties share a common desire to abate and alleviate the impacts of that misfeasance, nonfeasance and malfeasance throughout the State; and

Whereas, it is the intent of the State and its Local Governments to use the proceeds from any Settlements with Pharmaceutical Supply Chain Participants to increase the amount of funding presently spent on opioid and substance abuse education, treatment, prevention and other related programs and services, such as those identified in Exhibits "A" and "B," and to ensure that the funds are expended in compliance with evolving evidence-based "best practices;" and

Whereas, the State and its Local Governments enter into this Agreement and agree to the allocation and use of the proceeds of any settlement described herein

Wherefore, the Parties each agree to as follows:

A. Definitions

As used in this Agreement:

1. "Approved Purpose(s)" shall mean forward-looking strategies, programming and services used to expand the availability of treatment for individuals impacted by substance use disorders, to: (a) develop, promote, and provide evidence-based substance use prevention strategies; (b) provide substance use avoidance and awareness education; (c) decrease the oversupply of licit and illicit opioids; and (d) support recovery from addiction. Approved Purposes shall include, but are not limited to, the opioid abatement strategies listed in Exhibits "A" and "B" which are incorporated herein by reference.

2. "Local Governments" shall mean all counties, cities, towns and villages located within the geographic boundaries of the State.

3. "Managing Entities" shall mean the corporations selected by and under contract with the Florida Department of Children and Families or its successor ("DCF") to manage the daily operational delivery of behavioral health services through a coordinated system of care. The singular "Managing Entity" shall refer to a singular of the Managing Entities.

4. "County" shall mean a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution.

5. "Dependent Special District" shall mean a Special District meeting the requirements of Florida Statutes § 189.012(2).

6. "Municipalities" shall mean cities, towns, or villages located in a County within the State that either have: (a) a Population greater than 10,000 individuals; or (b) a Population equal to or less than 10,000 individuals and that has either (i) filed a lawsuit against one or more Pharmaceutical Supply Chain Participants; or (ii) executes a release in connection with a settlement with a Pharmaceutical Supply Chain participant. The singular "Municipality" shall refer to a singular city, town, or village within the definition of Municipalities.

7. "'Negotiating Committee" shall mean a three-member group comprised by representatives of the following: (1) the State; and (2) two representatives of Local Governments of which one representative will be from a Municipality and one shall be from a County (collectively, "Members") within the State. The State shall be represented by the Attorney General or her designee.

8. "Negotiation Class Metrics" shall mean those county and city settlement allocations which come from the official website of the Negotiation Class of counties and cities certified on September 11, 2019 by the U.S. District for the Northern District of Ohio in *In re National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio). The website is located at https://allocationmap.iclaimsonline.com.

9. "Opioid Funds" shall mean monetary amounts obtained through a Settlement.

10. "Opioid Related" shall have the same meaning and breadth as in the agreed Opioid Abatement Strategies attached hereto as Exhibits "A" or "B."

11. "Parties" shall mean the State and Local Governments that execute this Agreement. The singular word "Party" shall mean either the State or Local Governments that executed this Agreement.

12. "PEC" shall mean the Plaintiffs' Executive Committee of the National Prescription Opiate Multidistrict Litigation pending in the United States District Court for the Northern District of Ohio.

13. "Pharmaceutical Supply Chain" shall mean the entities, processes, and channels through which Controlled Substances are manufactured, marketed, promoted, distributed or dispensed.

14. "Pharmaceutical Supply Chain Participant" shall mean any entity that engages in, or has engaged in the manufacture, marketing, promotion, distribution or dispensing of an opioid analgesic.

15. "Population" shall refer to published U.S. Census Bureau population estimates as of July 1, 2019, released March 2020, and shall remain unchanged during the term of this Agreement. These estimates can currently be found at *https://www.census.gov. For purposes of Population under the definition of Qualified County, a County's population shall be the greater of its population as of the July 1, 2019, estimates or its actual population, according to the official U.S. Census Bureau count, which was released by the U.S. Census Bureau in August 2021.*

16. "Qualified County" shall mean a charter or non-chartered County that has a Population of at least 300,000 individuals and: (a) has an opioid taskforce or other similar board, commission, council, or entity (including some existing sub-unit of a County's government responsible for substance abuse prevention, treatment, and/or recovery) of which it is a member or it operates in connection with its municipalities or others on a local or regional basis; (b) has an abatement plan that has been either adopted or is being utilized to respond to the opioid epidemic; (c) is, as of December 31, 2021, either providing or is contracting with others to provide substance abuse prevention, recovery, and/or treatment services to its citizens; and (d) has or enters into an interlocal agreement with a majority of Municipalities (Majority is more than 50% of the Municipalities' total Population) related to the expenditure of Opioid Funds. The Opioid Funds to be paid to a Qualified County will only include Opioid Funds for Municipalities whose claims are released by the Municipality or Opioid Funds for Municipalities whose claims are otherwise barred. For avoidance of doubt, the word "operate" in connection with opioid task force means to do at least one of the following activities: (1) gathers data about the nature, extent, and problems being faced in communities within that County; (2) receives and reports recommendations from other government and private entities about activities that should be undertaken to abate the opioid epidemic to a County; and/or (3) makes recommendations to a County and other public and private leaders about steps, actions, or plans that should be undertaken to abate the opioid epidemic. For avoidance of doubt, the Population calculation required by subsection (d) does not include Population in unincorporated areas.

17. "SAMHSA" shall mean the U.S. Department of Health & Human Services, Substance Abuse and Mental Health Services Administration.

18. "Settlement" shall mean the negotiated resolution of legal or equitable claims against a Pharmaceutical Supply Chain Participant when that resolution has been jointly entered into by the State and Local Governments or a settlement class as described in (B)(1) below.

19. "State" shall mean the State of Florida.

B. Terms

1. **Only Abatement** - Other than funds used for the Administrative Costs and Expense Fund as hereinafter described or to pay obligations to the United States arising out of Medicaid or other federal programs, all Opioid Funds shall be utilized for Approved Purposes. In order to accomplish this purpose, the State will either: (a) file a new action with Local Governments as Parties; or (b) add Local Governments to its existing action, sever any settling defendants. In either type of action, the State will seek entry of a consent judgment, consent order or other order binding judgment binding both the State and Local Governments to utilize Opioid Funds for Approved Purposes ("Order") from the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, West Pasco Division New Port Richey, Florida (the "Court"), except as herein provided. The Order may be part of a class action settlement or similar device. The Order shall provide for continuing jurisdiction by the Court to address non-performance by any party under the Order.

2. **Avoid Claw Back and Recoupment** - Both the State and Local Governments wish to maximize any Settlement and Opioid Funds. In addition to committing to only using funds for the Expense Funds, Administrative Costs and Approved Purposes, both Parties will agree to utilize a percentage of funds for the Core Strategies highlighted in Exhibit A. Exhibit A contains the programs and strategies prioritized by the U.S. Department of Justice and/or the U.S. Department of Health & Human Services ("Core Strategies"). The State is trying to obtain the United States' agreement to limit or reduce the United States' ability to recover or recoup monies from the State and Local Government in exchange for prioritization of funds to certain projects. If no agreement is reached with the United States, then there will be no requirement that a percentage be utilized for Core Strategies.

3. **No Benefit Unless Fully Participating** - Any Local Government that objects to or refuses to be included under the Order or refuses or fails to execute any of documents necessary to effectuate a Settlement shall not receive, directly or indirectly, any Opioid Funds and its portion of Opioid Funds shall be distributed to, and for the benefit of, the Local Governments. Funds that were a for a Municipality that does not join a Settlement will be distributed to the County where that Municipality is located. Funds that were for a County that does not join a Settlement will be distributed pro rata to Counties that join a Settlement. For avoidance of doubt, if a Local Government initially refuses to be included in or execute the documents necessary to effectuate a Settlement and subsequently effectuates such documents necessary to join a Settlement, then that Local Government will only lose those payments made under a Settlement while that Local Government was not a part of the Settlement. If a Local Government participates in a Settlement, that Local Government is thereby releasing the claims of its Dependent Special District claims, if any.

4. **Distribution Scheme** – If a Settlement has a National Settlement Administrator or similar entity, all Opioids Funds will initially go to the Administrator to be distributed. If a Settlement does not have a National Settlement Administrator or similar entity, all Opioid Funds will initially go to the State, and then be distributed by the State as they are received from the Defendants according to the following distribution scheme. The Opioid Funds will be divided into three funds after deducting any costs of the Expense Fund detailed below. Funds due the federal government, if any, pursuant to Section B-2, will be subtracted from only the State and Regional Funds below:

(a) City/County Fund- The city/county fund will receive 15% of all Opioid Funds to directly benefit all Counties and Municipalities. The amounts to be distributed to each County and Municipality shall be determined by the Negotiation Class Metrics or other metrics agreed upon, in writing, by a County and a Municipality, which are attached to this Agreement as Exhibit "C." In the event that a Municipality has a Population less than 10,000 people and it does not execute a release or otherwise join a Settlement that Municipalities share under the Negotiation Class Metrics shall be reallocated to the County where that Municipality is located.

(b) Regional Fund- The regional fund will be subdivided into two parts.

(i) The State will annually calculate the share of each County within the State of the regional fund utilizing the sliding scale in paragraph 5 of the Agreement, and according to the Negotiation Class Metrics.

(ii) For Qualified Counties, the Qualified County's share will be paid to the Qualified County and expended on Approved Purposes, including the Core Strategies identified in Exhibit A, if applicable.

(iii) For all other Counties, the State will appropriate the regional share for each County and pay that share through DCF to the Managing Entities providing service for that County. The Managing Entities will be required to expend the monies on Approved Purposes, including the Core Strategies as directed by the Opioid Abatement Task Force or Council. The Managing Entities shall expend monies from this Regional Fund on services for the Counties within the State that are non-Qualified Counties and to ensure that there are services in every County. To the greatest extent practicable, the Managing Entities shall endeavor to expend monies in each County or for citizens of a County in the amount of the share that a County would have received if it were a Qualified County.

(c) State Fund - The remainder of Opioid Funds will be expended by the State on Approved Purposes, including the provisions related to Core Strategies, if applicable.

(d) To the extent that Opioid Funds are not appropriated and expended in a year by the State, the State shall identify the investments where settlement funds will be deposited. Any gains, profits, or interest accrued from the deposit of the Opioid Funds to the extent that any funds are not appropriated and expended within a calendar year, shall be the sole property of the Party that was entitled to the initial amount.

(e) To the extent a County or Municipality wishes to pool, comingle, or otherwise transfer its share, in whole or part, of Opioid Funds to another County or Municipality, the comingling Municipalities may do so by written agreement. The comingling Municipalities shall provide a copy of that agreement to the State and any settlement administrator to ensure that monies are directed consistent with such agreement. The County or Municipality receiving any such Opioid Funds shall assume the responsibility for reporting how such Opioid Funds were utilized under this Agreement.

5. Regional Fund Sliding Scale- The Regional Fund shall be calculated by utilizing the following sliding scale of the Opioid Funds available in any year after deduction of Expenses and any funds due the federal government:

A. Years 1-6: 40%

B. Years 7-9: 35%

C. Years 10-12: 34%

D. Years 13-15: 33%

E. Years 16-18: 30%

6. Opioid Abatement Taskforce or Council - The State will create an Opioid Abatement Taskforce or Council (sometimes hereinafter "Taskforce" or "Council") to advise the Governor, the Legislature, DCF, and Local Governments on the priorities that should be addressed by expenditure of Opioid Funds and to review how monies have been spent and the results that have been achieved with Opioid Funds.

(a) Size - The Taskforce or Council shall have ten Members equally balanced between the State and the Local Government representatives.

(b) Appointments Local Governments - Two Municipality representatives will be appointed by or through Florida League of Cities. Two county representatives, one from a Qualified County and one from a county within the State that is not a Qualified County, will be appointed by or through the Florida Association of Counties. The final representative will alternate every two years between being a county representative (appointed by or through Florida Association of Counties) or a Municipality representative (appointed by or through the Florida League of Cities). One Municipality representative must be from a city of less than 50,000 people. One county representative must be from a county of less than 200,000 people and the other county representative must be from a county whose population exceeds 200,000 people.

(c) Appointments State -

(i) The Governor shall appoint two Members.

(ii) The Speaker of the House shall appoint one Member.

(iii) The Senate President shall appoint one Member.

(iv) The Attorney General or her designee shall be a Member.

(d) Chair - The Attorney General or designee shall be the chair of the Taskforce or Council.

(e) Term - Members will be appointed to serve a four-year term and shall be staggered to comply with Florida Statutes § 20.052(4)(c).

(f) Support - DCF shall support the Taskforce or Council and the Taskforce or Council shall be administratively housed in DCF.

(g) Meetings - The Taskforce or Council shall meet quarterly in person or virtually using communications media technology as defined in section 120.54(5)(b)(2), Florida Statutes.

(h) Reporting - The Taskforce or Council shall provide and publish a report annually no later than November 30th or the first business day after November 30th, if November 30th falls on a weekend or is otherwise not a business day. The report shall contain information on how monies were spent the previous fiscal year by the State, each of the Qualified Counties, each of the Managing Entities, and each of the Local Governments. It shall also contain recommendations to the Governor, the Legislature, and Local Governments for priorities among the Approved Purposes or similar such uses for how monies should be spent the coming fiscal year to respond to the opioid epidemic. Prior to July 1st of each year, the State and each of the Local Governments shall provide information to DCF about how they intend to expend Opioid Funds in the upcoming fiscal year.

(i) Accountability - The State and each of the Local Governments shall report its expenditures to DCF no later than August 31st for the previous fiscal year. The Taskforce or Council will set other data sets that need to be reported to DCF to demonstrate the effectiveness of expenditures on Approved Purposes. In setting those requirements, the Taskforce or Council shall consider the Reporting Templates, Deliverables, Performance Measures, and other already utilized and existing templates and forms required by DCF from Managing Entities and suggest that similar requirements be utilized by all Parties to this Agreement.

(j) Conflict of Interest - All Members shall adhere to the rules, regulations and laws of Florida including, but not limited to, Florida Statute §112.311, concerning the disclosure of conflicts of interest and recusal from discussions or votes on conflicted matters.

7. **Administrative Costs**- The State may take no more than a 5% administrative fee from the State Fund and any Regional Fund that it administers for counties that are not Qualified Counties. Each Qualified County may take no more than a 5% administrative fee from its share of the Regional Funds. Municipalities and Counties may take no more than a 5% administrative fee from any funds that they receive or control from the City/County Fund.

8. **Negotiation of Non-Multistate Settlements** - If the State begins negotiations with a Pharmaceutical Supply Chain Participant that is separate and apart from a multi-state negotiation, the State shall include Local Governments that are a part of the Negotiating Committee in such negotiations. No Settlement shall be recommended or accepted without the affirmative votes of both the State and Local Government representatives of the Negotiating Committee.

9. **Negotiation of Multistate or Local Government Settlements** - To the extent practicable and allowed by other parties to a negotiation, both Parties agree to communicate with members of the Negotiation Committee regarding the terms of any other Pharmaceutical Supply Chain Participant Settlement.

10. **Program Requirements**- DCF and Local Governments desire to make the most efficient and effective use of the Opioid Funds. DCF and Local Governments will work to achieve that goal by ensuring the following requirements will be minimally met by any governmental entity or provider providing services pursuant to a contract or grant of Opioid Funds:

a. In either performing services under this Agreement or contracting with a provider to provide services with the Opioid Funds under this Agreement, the State and Local Governments shall be aware of and comply with all State and Federal laws, rules, Children and Families Operating Procedures (CFOPs), and similar regulations relating to the substance abuse and treatment services.

b. The State and Local Governments shall have and follow their existing policies and practices for accounting and auditing, including policies relating to whistleblowers and avoiding fraud, waste, and abuse. The State and Local Governments shall consider additional policies and practices recommended by the Opioid Abatement Taskforce or Council. c. In any award or grant to any provider, State and Local Governments shall ensure that each provider acknowledges its awareness of its obligations under law and shall audit, supervise, or review each provider's performance routinely, at least once every year.

d. In contracting with a provider, the State and Local Governments shall set performance measures in writing for a provider.

e. The State and Local Governments shall receive and report expenditures, service utilization data, demographic information, and national outcome measures in a similar fashion as required by the 42.U.S.C. s. 300x and 42 U.S.C. s. 300x-21.

f. The State and Local Governments, that implement evidenced based practice models will participate in fidelity monitoring as prescribed and completed by the originator of the model chosen..

g. The State and Local Governments shall ensure that each year, an evaluation of the procedures and activities undertaken to comply with the requirements of this Agreement are completed.

h. The State and Local Governments shall implement a monitoring process that will demonstrate oversight and corrective action in the case of non-compliance, for all providers that receive Opioid Funds. Monitoring shall include:

(i) Oversight of the any contractual or grant requirements;

(ii) Develop and utilize standardized monitoring tools;

(iii) Provide DCF and the Opioid Abatement Taskforce or Council with access to the monitoring reports; and

(iv) Develop and utilize the monitoring reports to create corrective action plans for providers, where necessary.

11. **Reporting and Records Requirements-** The State and Local Governments shall follow their existing reporting and records retention requirements along with considering any additional recommendations from the Opioid Abatement Taskforce or Council. Local Governments shall respond and provide documents to any reasonable requests from the State or Opioid Abatement Taskforce or Council for data or information about programs receiving Opioid Funds. The State and Local Governments shall ensure that any provider or sub-recipient of Opioid Funds at a minimum does the following:

(a) Any provider shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of Opioid Funds. Upon demand, at no additional cost to the State or Local Government, any provider will facilitate the duplication and transfer of any records or documents during the term that it receives any Opioid Funds and the required retention period for the State or Local Government. These records shall be made available at all reasonable times for inspection, review, copying, or audit by Federal, State, or other personnel duly authorized by the State or Local Government.

(b) Any provider shall retain and maintain all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the use of the Opioid Funds during the term of its receipt of Opioid Funds and retained for a period of six (6) years after its ceases to receives Opioid Funds or longer when required by law. In the event an audit is required by the State of Local Governments, records shall be retained for a minimum period of six (6) years after the audit report is issued or until resolution of any audit findings or litigation based on the terms of any award or contract.

(c) At all reasonable times for as long as records are maintained, persons duly authorized by State or Local Government auditors shall be allowed full access to and the right to examine any of the contracts and related records and documents, regardless of the form in which kept.

(d) A financial and compliance audit shall be performed annually and provided to the State.

(e) All providers shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by The Office of the Inspector General (section 20.055, F.S.) or the State.

(f) No record may be withheld nor may any provider attempt to limit the scope of any of the foregoing inspections, reviews, copying, transfers or audits based on any claim that any record is exempt from public inspection or is confidential, proprietary or trade secret in nature; provided, however, that this provision does not limit any exemption to public inspection or copying to any such record.

12. **Expense Fund** - The Parties agree that in any negotiation every effort shall be made to cause Pharmaceutical Supply Chain Participants to pay costs of litigation, including attorneys' fees, in addition to any agreed to Opioid Funds in the Settlement. To the extent that a fund sufficient to pay the full contingent fees of Local Governments is not created as part of a Settlement by a Pharmaceutical Supply Chain Participant, the Parties agree that an additional expense fund for attorneys who represent Local Governments (herein "Expense Fund") shall be created out of the City/County fund for the purpose of paying the hard costs of a litigating Local Government and then paying attorneys' fees.

(a) The Source of Funds for the Expense Fund- Money for the Expense Fund shall be sourced exclusively from the City/County Fund.

(b) The Amount of the Expense Fund- The State recognizes the value litigating Local Governments bring to the State in connection with the Settlement because their participation increases the amount of Incentive Payments due from each Pharmaceutical Supply Chain Participant. In recognition of that value, the amount of funds that shall be deposited into the Expense Fund shall be contingent upon on the percentage of litigating Local Government participation in the Settlement, according to the following table:

Litigating Local Government Participation in the Settlement (by percentage of the population)	Amount that shall be paid into the Expense Fund from (and as a percentage of) the City/County fund
96 to 100%	10%
91 to 95%	7.5%
86 to 90%	5%
85%	2.5%
Less than 85%	0%

If fewer than 85% percent of the litigating Local Governments (by population) participate, then the Expense Fund shall not be funded, and this Section of the Agreement shall be null and void.

(c) The Timing of Payments into the Expense Fund- Although the amount of the Expense Fund shall be calculated based on the entirety of payments due to the City/County fund over a ten-to-eighteen-year period, the Expense Fund shall be funded entirely from payments made by Pharmaceutical Supply Chain Participants during the first two payments of the Settlement. Accordingly, to offset the amounts being paid from the

City/County Fund to the Expense Fund in the first two years, Counties or Municipalities may borrow from the Regional Fund during the first two years and pay the borrowed amounts back to the Regional Fund during years three, four, and five.

For the avoidance of doubt, the following provides an illustrative example regarding the calculation of payments and amounts that may be borrowed under the terms of this MOU, consistent with the provisions of this Section:

Opioid Funds due to State of Florida and Local Governments (over 10 to 18 years):	$1,000
Litigating Local Government Participation:	100%
City/County Fund (over 10 to 18 years):	$150
Expense Fund (paid over 2 years):	$15
Amount Paid to Expense Fund in 1st year:	$7.5
Amount Paid to Expense Fund in 2nd year	$7.5
Amount that may be borrowed from Regional Fund in 1st year:	$7.5
Amount that may be borrowed from Regional Fund in 2nd year:	$7.5
Amount that must be paid back to Regional Fund in 3rd year:	$5
Amount that must be paid back to Regional Fund in 4th year:	$5
Amount that must be paid back to Regional Fund in 5th year:	$5

(d) Creation of and Jurisdiction over the Expense Fund- The Expense Fund shall be established, consistent with the provisions of this Section of the Agreement, by order of the Court. The Court shall have jurisdiction over the Expense Fund, including authority to allocate and disburse amounts from the Expense Fund and to resolve any disputes concerning the Expense Fund.

(e) Allocation of Payments to Counsel from the Expense Fund- As part of the order establishing the Expense Fund, counsel for the litigating Local Governments shall seek to have the Court appoint a third-neutral to serve as a special master for purposes of allocating the Expense Fund. Within 30 days of entry of the order appointing a special master for the Expense Fund, any counsel who intend to seek an award from the Expense Fund shall provide the copies of their contingency fee contracts to the special master. The special master shall then build a mathematical model, which shall be based on each litigating Local Government's share under the Negotiation Class Metrics and the rate set forth in their contingency contracts, to calculate a proposed award for each litigating Local Government who timely provided a copy of its contingency contract.

13. **Dispute resolution-** Any one or more of the Local Governments or the State may object to an allocation or expenditure of Opioid Funds solely on the basis that the allocation or expenditure at issue (a) is inconsistent with the Approved Purposes; (b) is inconsistent with the distribution scheme as provided in paragraph,; (c) violates the limitations set forth herein with respect to administrative costs or the Expense Fund; or (d) to recover amounts advanced from the Regional Fund for the Expense Fund. There shall be no other basis for bringing an objection to the approval of an allocation or expenditure of Opioid Funds. In the event that there is a National Settlement Administrator or similar entity, the Local Governments sole action for non-payment of

amounts due from the City/County Fund shall be against the particular settling defendant and/or the National Settlement Administrator or similar entity.

C. Other Terms and Conditions

1. **Governing Law and Venue**: This Agreement will be governed by the laws of the State of Florida. Any and all litigation arising under the Agreement, unless otherwise specified in this Agreement, will be instituted in either: (a) the Court that enters the Order if the matter deals with a matter covered by the Order and the Court retains jurisdiction; or (b) the appropriate State court in Leon County, Florida.

2. **Agreement Management and Notification:** The Parties have identified the following individuals as Agreement Managers and Administrators:

a. State of Florida Agreement Manager:

Greg Slemp

PL-01, The Capitol, Tallahassee, FL 32399

850-414-3300

Greg.slemp@myfloridalegal.com

b. State of Florida Agreement Administrator

Janna Barineau

PL-01, The Capitol, Tallahassee, FL 32399

850-414-3300

Janna.barineau@myfloridalegal.com

c. Local Governments Agreement Managers and Administrators are listed on Exhibit C to this Agreement.

Changes to either the Managers or Administrators may be made by notifying the other Party in writing, without formal amendment to this Agreement.

3. **Notices**. All notices required under the Agreement will be delivered by certified mail, return receipt requested, by reputable air courier, or by personal delivery to the designee identified in paragraphs C.2., above. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.

4. **Cooperation with Inspector General:** Pursuant to section 20.055, Florida Statutes, the Parties, understand and will comply with their duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing.

5. **Public Records**: The Parties will keep and maintain public records pursuant to Chapter 119, Florida Statutes and will comply will all applicable provisions of that Chapter.

6. **Modification**: This Agreement may only be modified by a written amendment between the appropriate parties. No promises or agreements made subsequent to the execution of this Agreement shall be binding unless express, reduced to writing, and signed by the Parties.

7. **Execution in Counterparts**: This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

8. **Assignment:** The rights granted in this Agreement may not be assigned or transferred by any party without the prior written approval of the other party. No party shall be permitted to delegate its responsibilities or obligations under this Agreement without the prior written approval of the other parties.

9. **Additional Documents:** The Parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions which may be reasonably necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.

10. **Captions:** The captions contained in this Agreement are for convenience only and shall in no way define, limit, extend or describe the scope of this Agreement or any part of it.

11. **Entire Agreement:** This Agreement, including any attachments, embodies the entire agreement of the parties. There are no other provisions, terms, conditions, or obligations. This Agreement supersedes all previous oral or written communications, representations or agreements on this subject.

12. **Construction:** The parties hereto hereby mutually acknowledge and represent that they have been fully advised by their respective legal counsel of their rights and responsibilities under this Agreement, that they have read, know, and understand completely the contents hereof, and that they have voluntarily executed the same. The parties hereto further hereby mutually acknowledge that they have had input into the drafting of this Agreement and that, accordingly, in any construction to be made of this Agreement, it shall not be construed for or against any party, but rather shall be given a fair and reasonable interpretation, based on the plain language of the Agreement and the expressed intent of the parties.

13. **Capacity to Execute Agreement:** The parties hereto hereby represent and warrant that the individuals signing this Agreement on their behalf are duly authorized and fully competent to do so.

14. **Effectiveness:** This Agreement shall become effective on the date on which the last required signature is affixed to this Agreement.

IN WITNESS THEREOF, the parties hereto have caused the Agreement to be executed by their undersigned officials as duly authorized.

STATE OF FLORIDA

11/15/2021

By: John Guard DATED

Its: Chief Deputy Attorney General

EXHIBIT A

Schedule A

Core Strategies

States and Qualifying Block Grantees shall choose from among the abatement strategies listed in Schedule B. However, priority shall be given to the following core abatement strategies ("**Core Strategies**")[, such that a minimum of __% of the [aggregate] state-level abatement distributions shall be spent on [one or more of] them annually].[1]

A. Naloxone or other FDA-approved drug to reverse opioid overdoses

1. Expand training for first responders, schools, community support groups and families; and

2. Increase distribution to individuals who are uninsured or whose insurance does not cover the needed service.

B. Medication-Assisted Treatment ("MAT") Distribution and other opioid-related treatment

1. Increase distribution of MAT to non-Medicaid eligible or uninsured individuals;

2. Provide education to school-based and youth-focused programs that discourage or prevent misuse;

3. Provide MAT education and awareness training to healthcare providers, EMTs, law enforcement, and other first responders; and

4. Treatment and Recovery Support Services such as residential and inpatient treatment, intensive outpatient treatment, outpatient therapy or counseling, and recovery housing that allow or integrate medication with other support services.

C. Pregnant & Postpartum Women

1. Expand Screening, Brief Intervention, and Referral to Treatment ("SBIRT") services to non-Medicaid eligible or uninsured pregnant women;

2. Expand comprehensive evidence-based treatment and recovery services, including MAT, for women with co-occurring Opioid Use Disorder ("OUD") and other Substance Use Disorder ("SUD")/Mental Health disorders for uninsured individuals for up to 12 months postpartum; and

3. Provide comprehensive wrap-around services to individuals with Opioid Use Disorder (OUD) including housing, transportation, job placement/training, and childcare.

D. Expanding Treatment for Neonatal Abstinence Syndrome

1. Expand comprehensive evidence-based and recovery support for NAS babies;

2. Expand services for better continuum of care with infant-need dyad; and

3. Expand long-term treatment and services for medical monitoring of NAS babies and their families.

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[1] As used in this Schedule A, words like "expand," "fund," "provide" or the like shall not indicate a preference for new or existing programs. Priorities will be established through the mechanisms described in the Term Sheet.

E. Expansion of Warm Hand-off Programs and Recovery Services

1. Expand services such as navigators and on-call teams to begin MAT in hospital emergency departments;

2. Expand warm hand-off services to transition to recovery services;

3. Broaden scope of recovery services to include co-occurring SUD or mental health conditions. ;

4. Provide comprehensive wrap-around services to individuals in recovery including housing, transportation, job placement/training, and childcare; and

5. Hire additional social workers or other behavioral health workers to facilitate expansions above.

F. Treatment for Incarcerated Population

1. Provide evidence-based treatment and recovery support including MAT for persons with OUD and co-occurring SUD/MH disorders within and transitioning out of the criminal justice system; and

2. Increase funding for jails to provide treatment to inmates with OUD.

G. Prevention Programs

1. Funding for media campaigns to prevent opioid use (similar to the FDA's "Real Cost" campaign to prevent youth from misusing tobacco);

2. Funding for evidence-based prevention programs in schools.;

3. Funding for medical provider education and outreach regarding best prescribing practices for opioids consistent with the 2016 CDC guidelines, including providers at hospitals (academic detailing);

4. Funding for community drug disposal programs; and

5. Funding and training for first responders to participate in pre-arrest diversion programs, post-overdose response teams, or similar strategies that connect at-risk individuals to behavioral health services and supports.

H. Expanding Syringe Service Programs

1. Provide comprehensive syringe services programs with more wrap-around services including linkage to OUD treatment, access to sterile syringes, and linkage to care and treatment of infectious diseases.

I. Evidence-based data collection and research analyzing the effectiveness of the abatement strategies within the State.

EXHIBIT B

Schedule B

Approved Uses

PART ONE: TREATMENT

A. TREAT OPIOID USE DISORDER (OUD)

Support treatment of Opioid Use Disorder (OUD) and any co-occurring Substance Use Disorder or Mental Health (SUD/MH) conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:[2]

1. Expand availability of treatment for OUD and any co-occurring SUD/MH conditions, including all forms of Medication-Assisted Treatment (MAT) approved by the U.S. Food and Drug Administration.

2. Support and reimburse evidence-based services that adhere to the American Society of Addiction Medicine (ASAM) continuum of care for OUD and any co-occurring SUD/MH conditions

3. Expand telehealth to increase access to treatment for OUD and any co-occurring SUD/MH conditions, including MAT, as well as counseling, psychiatric support, and other treatment and recovery support services.

4. Improve oversight of Opioid Treatment Programs (OTPs) to assure evidence-based or evidence-informed practices such as adequate methadone dosing and low threshold approaches to treatment.

5. Support mobile intervention, treatment, and recovery services, offered by qualified professionals and service providers, such as peer recovery coaches, for persons with OUD and any co-occurring SUD/MH conditions and for persons who have experienced an opioid overdose.

6. Treatment of trauma for individuals with OUD (e.g., violence, sexual assault, human trafficking, or adverse childhood experiences) and family members (e.g., surviving family members after an overdose or overdose fatality), and training of health care personnel to identify and address such trauma.

7. Support evidence-based withdrawal management services for people with OUD and any co-occurring mental health conditions.

8. Training on MAT for health care providers, first responders, students, or other supporting professionals, such as peer recovery coaches or recovery outreach specialists, including telementoring to assist community-based providers in rural or underserved areas.

9. Support workforce development for addiction professionals who work with persons with OUD and any co-occurring SUD/MH conditions.

10. Fellowships for addiction medicine specialists for direct patient care, instructors, and clinical research for treatments.

11. Scholarships and supports for behavioral health practitioners or workers involved in addressing OUD and any co-occurring SUD or mental health conditions, including but not limited to training,

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[2] As used in this Schedule B, words like "expand," "fund," "provide" or the like shall not indicate a preference for new or existing programs. Priorities will be established through the mechanisms described in the Term Sheet.

scholarships, fellowships, loan repayment programs, or other incentives for providers to work in rural or underserved areas.

12. [Intentionally Blank – to be cleaned up later for numbering]

13. Provide funding and training for clinicians to obtain a waiver under the federal Drug Addiction Treatment Act of 2000 (DATA 2000) to prescribe MAT for OUD, and provide technical assistance and professional support to clinicians who have obtained a DATA 2000 waiver.

14. Dissemination of web-based training curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service-Opioids web-based training curriculum and motivational interviewing.

15. Development and dissemination of new curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service for Medication-Assisted Treatment.

B. SUPPORT PEOPLE IN TREATMENT AND RECOVERY

Support people in treatment for or recovery from OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Provide comprehensive wrap-around services to individuals with OUD and any co-occurring SUD/MH conditions, including housing, transportation, education, job placement, job training, or childcare.

2. Provide the full continuum of care of treatment and recovery services for OUD and any co-occurring SUD/MH conditions, including supportive housing, peer support services and counseling, community navigators, case management, and connections to community-based services.

3. Provide counseling, peer-support, recovery case management and residential treatment with access to medications for those who need it to persons with OUD and any co-occurring SUD/MH conditions.

4. Provide access to housing for people with OUD and any co-occurring SUD/MH conditions, including supportive housing, recovery housing, housing assistance programs, training for housing providers, or recovery housing programs that allow or integrate FDA-approved medication with other support services.

5. Provide community support services, including social and legal services, to assist in deinstitutionalizing persons with OUD and any co-occurring SUD/MH conditions.

6. Support or expand peer-recovery centers, which may include support groups, social events, computer access, or other services for persons with OUD and any co-occurring SUD/MH conditions.

7. Provide or support transportation to treatment or recovery programs or services for persons with OUD and any co-occurring SUD/MH conditions.

8. Provide employment training or educational services for persons in treatment for or recovery from OUD and any co-occurring SUD/MH conditions.

9. Identify successful recovery programs such as physician, pilot, and college recovery programs, and provide support and technical assistance to increase the number and capacity of high-quality programs to help those in recovery.

10. Engage non-profits, faith-based communities, and community coalitions to support people in treatment and recovery and to support family members in their efforts to support the person with OUD in the family.

11. Training and development of procedures for government staff to appropriately interact and provide social and other services to individuals with or in recovery from OUD, including reducing stigma.

12. Support stigma reduction efforts regarding treatment and support for persons with OUD, including reducing the stigma on effective treatment.

13. Create or support culturally appropriate services and programs for persons with OUD and any co-occurring SUD/MH conditions, including new Americans.

14. Create and/or support recovery high schools.

15. Hire or train behavioral health workers to provide or expand any of the services or supports listed above.

C. CONNECT PEOPLE WHO NEED HELP TO THE HELP THEY NEED (CONNECTIONS TO CARE)

Provide connections to care for people who have – or at risk of developing – OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Ensure that health care providers are screening for OUD and other risk factors and know how to appropriately counsel and treat (or refer if necessary) a patient for OUD treatment.

2. Fund Screening, Brief Intervention and Referral to Treatment (SBIRT) programs to reduce the transition from use to disorders, including SBIRT services to pregnant women who are uninsured or not eligible for Medicaid.

3. Provide training and long-term implementation of SBIRT in key systems (health, schools, colleges, criminal justice, and probation), with a focus on youth and young adults when transition from misuse to opioid disorder is common.

4. Purchase automated versions of SBIRT and support ongoing costs of the technology.

5. Expand services such as navigators and on-call teams to begin MAT in hospital emergency departments.

6. Training for emergency room personnel treating opioid overdose patients on post-discharge planning, including community referrals for MAT, recovery case management or support services.

7. Support hospital programs that transition persons with OUD and any co-occurring SUD/MH conditions, or persons who have experienced an opioid overdose, into clinically-appropriate follow-up care through a bridge clinic or similar approach.

8. Support crisis stabilization centers that serve as an alternative to hospital emergency departments for persons with OUD and any co-occurring SUD/MH conditions or persons that have experienced an opioid overdose.

9. Support the work of Emergency Medical Systems, including peer support specialists, to connect individuals to treatment or other appropriate services following an opioid overdose or other opioid-related adverse event.

10. Provide funding for peer support specialists or recovery coaches in emergency departments, detox facilities, recovery centers, recovery housing, or similar settings; offer services, supports, or connections to care to persons with OUD and any co-occurring SUD/MH conditions or to persons who have experienced an opioid overdose.

11. Expand warm hand-off services to transition to recovery services.

12. Create or support school-based contacts that parents can engage with to seek immediate treatment services for their child; and support prevention, intervention, treatment, and recovery programs focused on young people.

13. Develop and support best practices on addressing OUD in the workplace.

14. Support assistance programs for health care providers with OUD.

15. Engage non-profits and the faith community as a system to support outreach for treatment.

16. Support centralized call centers that provide information and connections to appropriate services and supports for persons with OUD and any co-occurring SUD/MH conditions.

D. ADDRESS THE NEEDS OF CRIMINAL-JUSTICE-INVOLVED PERSONS

Address the needs of persons with OUD and any co-occurring SUD/MH conditions who are involved in, are at risk of becoming involved in, or are transitioning out of the criminal justice system through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Support pre-arrest or pre-arraignment diversion and deflection strategies for persons with OUD and any co-occurring SUD/MH conditions, including established strategies such as:

    a. Self-referral strategies such as the Angel Programs or the Police Assisted Addiction Recovery Initiative (PAARI);

    b. Active outreach strategies such as the Drug Abuse Response Team (DART) model;

    c. “Naloxone Plus” strategies, which work to ensure that individuals who have received naloxone to reverse the effects of an overdose are then linked to treatment programs or other appropriate services;

    d. Officer prevention strategies, such as the Law Enforcement Assisted Diversion (LEAD) model;

    e. Officer intervention strategies such as the Leon County, Florida Adult Civil Citation Network or the Chicago Westside Narcotics Diversion to Treatment Initiative; or

f. Co-responder and/or alternative responder models to address OUD-related 911 calls with greater SUD expertise

2. Support pre-trial services that connect individuals with OUD and any co-occurring SUD/MH conditions to evidence-informed treatment, including MAT, and related services.

3. Support treatment and recovery courts that provide evidence-based options for persons with OUD and any co-occurring SUD/MH conditions

4. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are incarcerated in jail or prison.

5. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are leaving jail or prison have recently left jail or prison, are on probation or parole, are under community corrections supervision, or are in re-entry programs or facilities.

6. Support critical time interventions (CTI), particularly for individuals living with dual-diagnosis OUD/serious mental illness, and services for individuals who face immediate risks and service needs and risks upon release from correctional settings.

7. Provide training on best practices for addressing the needs of criminal-justice-involved persons with OUD and any co-occurring SUD/MH conditions to law enforcement, correctional, or judicial personnel or to providers of treatment, recovery, harm reduction, case management, or other services offered in connection with any of the strategies described in this section.

E. ADDRESS THE NEEDS OF PREGNANT OR PARENTING WOMEN AND THEIR FAMILIES, INCLUDING BABIES WITH NEONATAL ABSTINENCE SYNDROME

Address the needs of pregnant or parenting women with OUD and any co-occurring SUD/MH conditions, and the needs of their families, including babies with neonatal abstinence syndrome (NAS), through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Support evidence-based or evidence-informed treatment, including MAT, recovery services and supports, and prevention services for pregnant women – or women who could become pregnant – who have OUD and any co-occurring SUD/MH conditions, and other measures to educate and provide support to families affected by Neonatal Abstinence Syndrome.

2. Expand comprehensive evidence-based treatment and recovery services, including MAT, for uninsured women with OUD and any co-occurring SUD/MH conditions for up to 12 months postpartum.

3. Training for obstetricians or other healthcare personnel that work with pregnant women and their families regarding treatment of OUD and any co-occurring SUD/MH conditions.

4. Expand comprehensive evidence-based treatment and recovery support for NAS babies; expand services for better continuum of care with infant-need dyad; expand long-term treatment and services for medical monitoring of NAS babies and their families.

5. Provide training to health care providers who work with pregnant or parenting women on best practices for compliance with federal requirements that children born with Neonatal Abstinence Syndrome get referred to appropriate services and receive a plan of safe care.

6. Child and family supports for parenting women with OUD and any co-occurring SUD/MH conditions.

7. Enhanced family supports and child care services for parents with OUD and any co-occurring SUD/MH conditions.

8. Provide enhanced support for children and family members suffering trauma as a result of addiction in the family; and offer trauma-informed behavioral health treatment for adverse childhood events.

9. Offer home-based wrap-around services to persons with OUD and any co-occurring SUD/MH conditions, including but not limited to parent skills training.

10. Support for Children's Services – Fund additional positions and services, including supportive housing and other residential services, relating to children being removed from the home and/or placed in foster care due to custodial opioid use.

PART TWO: PREVENTION

F. PREVENT OVER-PRESCRIBING AND ENSURE APPROPRIATE PRESCRIBING AND DISPENSING OF OPIOIDS

Support efforts to prevent over-prescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Fund medical provider education and outreach regarding best prescribing practices for opioids consistent with Guidelines for Prescribing Opioids for Chronic Pain from the U.S. Centers for Disease Control and Prevention, including providers at hospitals (academic detailing).

2. Training for health care providers regarding safe and responsible opioid prescribing, dosing, and tapering patients off opioids.

3. Continuing Medical Education (CME) on appropriate prescribing of opioids.

4. Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.

5. Support enhancements or improvements to Prescription Drug Monitoring Programs (PDMPs), including but not limited to improvements that:

    a. Increase the number of prescribers using PDMPs;

    b. Improve point-of-care decision-making by increasing the quantity, quality, or format of data available to prescribers using PDMPs, by improving the interface that prescribers use to access PDMP data, or both; or

c. Enable states to use PDMP data in support of surveillance or intervention strategies, including MAT referrals and follow-up for individuals identified within PDMP data as likely to experience OUD in a manner that complies with all relevant privacy and security laws and rules.

6. Ensuring PDMPs incorporate available overdose/naloxone deployment data, including the United States Department of Transportation's Emergency Medical Technician overdose database in a manner that complies with all relevant privacy and security laws and rules.

7. Increase electronic prescribing to prevent diversion or forgery.

8. Educate Dispensers on appropriate opioid dispensing.

G. PREVENT MISUSE OF OPIOIDS

Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Fund media campaigns to prevent opioid misuse.

2. Corrective advertising or affirmative public education campaigns based on evidence.

3. Public education relating to drug disposal.

4. Drug take-back disposal or destruction programs.

5. Fund community anti-drug coalitions that engage in drug prevention efforts.

6. Support community coalitions in implementing evidence-informed prevention, such as reduced social access and physical access, stigma reduction – including staffing, educational campaigns, support for people in treatment or recovery, or training of coalitions in evidence-informed implementation, including the Strategic Prevention Framework developed by the U.S. Substance Abuse and Mental Health Services Administration (SAMHSA).

7. Engage non-profits and faith-based communities as systems to support prevention.

8. Fund evidence-based prevention programs in schools or evidence-informed school and community education programs and campaigns for students, families, school employees, school athletic programs, parent-teacher and student associations, and others.

9. School-based or youth-focused programs or strategies that have demonstrated effectiveness in preventing drug misuse and seem likely to be effective in preventing the uptake and use of opioids.

10. Create of support community-based education or intervention services for families, youth, and adolescents at risk for OUD and any co-occurring SUD/MH conditions.

11. Support evidence-informed programs or curricula to address mental health needs of young people who may be at risk of misusing opioids or other drugs, including emotional modulation and resilience skills.

12. Support greater access to mental health services and supports for young people, including services and supports provided by school nurses, behavioral health workers or other school staff, to address

mental health needs in young people that (when not properly addressed) increase the risk of opioid or other drug misuse.

H. PREVENT OVERDOSE DEATHS AND OTHER HARMS (HARM REDUCTION)

Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Increase availability and distribution of naloxone and other drugs that treat overdoses for first responders, overdose patients, individuals with OUD and their friends and family members, individuals at high risk of overdose, schools, community navigators and outreach workers, persons being released from jail or prison, or other members of the general public.

2. Public health entities provide free naloxone to anyone in the community

3. Training and education regarding naloxone and other drugs that treat overdoses for first responders, overdose patients, patients taking opioids, families, schools, community support groups, and other members of the general public.

4. Enable school nurses and other school staff to respond to opioid overdoses, and provide them with naloxone, training, and support.

5. Expand, improve, or develop data tracking software and applications for overdoses/naloxone revivals.

6. Public education relating to emergency responses to overdoses.

7. Public education relating to immunity and Good Samaritan laws.

8. Educate first responders regarding the existence and operation of immunity and Good Samaritan laws.

9. Syringe service programs and other evidence-informed programs to reduce harms associated with intravenous drug use, including supplies, staffing, space, peer support services, referrals to treatment, fentanyl checking, connections to care, and the full range of harm reduction and treatment services provided by these programs.

10. Expand access to testing and treatment for infectious diseases such as HIV and Hepatitis C resulting from intravenous opioid use.

11. Support mobile units that offer or provide referrals to harm reduction services, treatment, recovery supports, health care, or other appropriate services to persons that use opioids or persons with OUD and any co-occurring SUD/MH conditions.

12. Provide training in harm reduction strategies to health care providers, students, peer recovery coaches, recovery outreach specialists, or other professionals that provide care to persons who use opioids or persons with OUD and any co-occurring SUD/MH conditions.

13. Support screening for fentanyl in routine clinical toxicology testing.

PART THREE: OTHER STRATEGIES

I. FIRST RESPONDERS

In addition to items in sections C, D, and H relating to first responders, support the following:

1. Educate law enforcement or other first responders regarding appropriate practices and precautions when dealing with fentanyl or other drugs.

2. Provision of wellness and support services for first responders and others who experience secondary trauma associated with opioid-related emergency events.

J. LEADERSHIP, PLANNING AND COORDINATION

Support efforts to provide leadership, planning, coordination, facilitation, training and technical assistance to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, the following:

1. Statewide, regional, local, or community regional planning to identify root causes of addiction and overdose, goals for reducing harms related to the opioid epidemic, and areas and populations with the greatest needs for treatment intervention services; to support training and technical assistance; or to support other strategies to abate the opioid epidemic described in this opioid abatement strategy list.

2. A dashboard to share reports, recommendations, or plans to spend opioid settlement funds; to show how opioid settlement funds have been spent; to report program or strategy outcomes; or to track, share, or visualize key opioid-related or health-related indicators and supports as identified through collaborative statewide, regional, local, or community processes.

3. Invest in infrastructure or staffing at government or not-for-profit agencies to support collaborative, cross-system coordination with the purpose of preventing overprescribing, opioid misuse, or opioid overdoses, treating those with OUD and any co-occurring SUD/MH conditions, supporting them in treatment or recovery, connecting them to care, or implementing other strategies to abate the opioid epidemic described in this opioid abatement strategy list.

4. Provide resources to staff government oversight and management of opioid abatement programs.

K. TRAINING

In addition to the training referred to throughout this document, support training to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, the following:

1. Provide funding for staff training or networking programs and services to improve the capability of government, community, and not-for-profit entities to abate the opioid crisis.

2. Support infrastructure and staffing for collaborative cross-system coordination to prevent opioid misuse, prevent overdoses, and treat those with OUD and any co-occurring SUD/MH conditions, or implement other strategies to abate the opioid epidemic described in this opioid abatement strategy list (e.g., health care, primary care, pharmacies, PDMPs, etc.).

L. RESEARCH

Support opioid abatement research that may include, but is not limited to, the following:

1. Monitoring, surveillance, data collection, and evaluation of programs and strategies described in this opioid abatement strategy list.

2. Research non-opioid treatment of chronic pain.

3. Research on improved service delivery for modalities such as SBIRT that demonstrate promising but mixed results in populations vulnerable to opioid use disorders.

4. Research on novel harm reduction and prevention efforts such as the provision of fentanyl test strips.

5. Research on innovative supply-side enforcement efforts such as improved detection of mail-based delivery of synthetic opioids.

6. Expanded research on swift/certain/fair models to reduce and deter opioid misuse within criminal justice populations that build upon promising approaches used to address other substances (e.g. Hawaii HOPE and Dakota 24/7).

7. Epidemiological surveillance of OUD-related behaviors in critical populations including individuals entering the criminal justice system, including but not limited to approaches modeled on the Arrestee Drug Abuse Monitoring (ADAM) system.

8. Qualitative and quantitative research regarding public health risks and harm reduction opportunities within illicit drug markets, including surveys of market participants who sell or distribute illicit opioids.

9. Geospatial analysis of access barriers to MAT and their association with treatment engagement and treatment outcomes.

EXHIBIT C

County	Allocated Subdivisions	Regional % by County for Abatement Fund	City/County Fund %
Alachua		1.241060164449%	
	Alachua County		0.821689546303%
	Alachua		0.013113332457%
	Archer		0.000219705515%
	Gainesville		0.381597611347%
	Hawthorne		0.000270546460%
	High Springs		0.011987568663%
	La Crosse		0.000975056706%
	Micanopy		0.002113530737%
	Newberry		0.006102729215%
	Waldo		0.002988721299%
Baker		0.193173804130%	
	Baker County		0.169449240037%
	Glen St. Mary		0.000096234647%
	Macclenny		0.023628329446%
Bay		0.839656373312%	
	Bay County		0.508772605155%
	Callaway		0.024953825527%
	Lynn Haven		0.039205632015%
	Mexico Beach		0.005614292988%
	Panama City		0.155153855596%
	Panama City Beach		0.080897023117%
	Parker		0.008704696178%
	Springfield		0.016354442736%
Bradford		0.189484204081%	
	Bradford County		0.151424309090%
	Brooker		0.000424885045%
	Hampton		0.002839829959%
	Lawtey		0.003400896108%
	Starke		0.031392468132%
Brevard		3.878799180444%	
	Brevard County		2.323022668525%
	Cape Canaveral		0.045560750209%

	Cocoa		0.149245411423%
	Cocoa Beach		0.084363286155%
	Grant-Valkaria		0.000321387406%
	Indialantic		0.024136738902%
	Indian Harbour Beach		0.021089913665%
	Malabar		0.002505732317%
	Melbourne		0.383104682233%
	Melbourne Beach		0.012091066302%
	Melbourne Village		0.003782203200%
	Palm Bay		0.404817397481%
	Palm Shores		0.000127102364%
	Rockledge		0.096603243798%
	Satellite Beach		0.035975416224%
	Titusville		0.240056418924%
	West Melbourne		0.051997577066%
Broward		9.057962672578%	
	Broward County		3.966403576878%
	Coconut Creek		0.101131719448%
	Cooper City		0.073935445073%
	Coral Springs		0.323406517664%
	Dania Beach		0.017807041180%
	Davie		0.266922227153%
	Deerfield Beach		0.202423224725%
	Fort Lauderdale		0.830581264531%
	Hallandale Beach		0.154950491814%
	Hillsboro Beach		0.012407006463%
	Hollywood		0.520164608456%
	Lauderdale-By-The-Sea		0.022807611325%
	Lauderdale Lakes		0.062625150435%
	Lauderhill		0.144382838130%
	Lazy Lake		0.000021788977%
	Lighthouse Point		0.029131861803%
	Margate		0.143683775129%
	Miramar		0.279280208419%
	North Lauderdale		0.066069624496%

	Oakland Park		0.100430840699%
	Ocean Breeze		0.005381877237%
	Parkland		0.045804060448%
	Pembroke Park		0.024597938908%
	Pembroke Pines		0.462832363603%
	Plantation		0.213918725664%
	Pompano Beach		0.335472163493%
	Sea Ranch Lakes		0.005024174870%
	Southwest Ranches		0.025979723178%
	Sunrise		0.286071106146%
	Tamarac		0.134492458472%
	Weston		0.138637811283%
	West Park		0.029553115352%
	Wilton Manors		0.031630331127%
Calhoun		0.047127740781%	
	Calhoun County		0.038866087128%
	Altha		0.000366781107%
	Blountstown		0.007896688293%
Charlotte		0.737346233376%	
	Charlotte County		0.690225755587%
	Punta Gorda		0.047120477789%
Citrus		0.969645776606%	
	Citrus County		0.929715661117%
	Crystal River		0.021928789266%
	Inverness		0.018001326222%
Clay		1.193429461456%	
	Clay County		1.055764891131%
	Green Cove Springs		0.057762577142%
	Keystone Heights		0.000753535443%
	Orange Park		0.078589207339%
	Penney Farms		0.000561066149%
Collier		1.551333376427%	
	Collier County		1.354673336030%
	Everglades		0.000148891341%
	Marco Island		0.062094952003%

	Naples		0.134416197054%
Columbia		0.446781150792%	
	Columbia County		0.341887201373%
	Fort White		0.000236047247%
	Lake City		0.104659717920%
DeSoto		0.113640407802%	
	DeSoto County		0.096884684746%
	Arcadia		0.016755723056%
Dixie		0.103744580900%	
	Dixie County		0.098822087921%
	Cross City		0.004639236282%
	Horseshoe Beach		0.000281440949%
Duval		5.434975156935%	
	Jacksonville		5.270570064997%
	Atlantic Beach		0.038891507601%
	Baldwin		0.002251527589%
	Jacksonville Beach		0.100447182431%
	Neptune Beach		0.022814874318%
Escambia		1.341634449244%	
	Escambia County		1.005860871574%
	Century		0.005136751249%
	Pensacola		0.330636826421%
Flagler		0.389864712244%	
	Flagler Counry		0.279755934409%
	Beverly Beach		0.000154338585%
	Bunnell		0.009501809575%
	Flagler Beach		0.015482883669%
	Marineland		0.000114392127%
	Palm Coast		0.084857169626%
Franklin		0.049911282550%	
	Franklin County		0.046254365966%
	Apalachicola		0.001768538606%
	Carabelle		0.001888377978%
Gadsden		0.123656074077%	
	Gadsden County		0.090211810642%

	Chattahoochee		0.004181667772%
	Greensboro		0.000492067723%
	Gretna		0.002240633101%
	Havana		0.005459954403%
	Midway		0.001202025213%
	Quincy		0.019867915223%
Gilchrist		0.064333769355%	
	Gilchrist County		0.061274233881%
	Bell		0.000099866143%
	Fanning Springs		0.000388570084%
	Trenton		0.002571099247%
Glades		0.040612836758%	
	Glades County		0.040420367464%
	Moore Haven		0.000192469294%
Gulf		0.059914238588%	
	Gulf County		0.054715751905%
	Port St. Joe		0.004817179591%
	Wewahitchka		0.000381307092%
Hamilton		0.047941195910%	
	Hamilton County		0.038817061931%
	Jasper		0.004869836285%
	Jennings		0.002623755940%
	White Springs		0.001630541754%
Hardee		0.067110048132%	
	Hardee County		0.058100306280%
	Bowling Green		0.001797590575%
	Wauchula		0.006667426860%
	Zolfo Springs		0.000544724417%
Hendry		0.144460915297%	
	Hendry County		0.122147187443%
	Clewiston		0.017589151414%
	LaBelle		0.004724576440%
Hernando		1.510075949110%	
	Hernando County		1.447521612849%
	Brooksville		0.061319627583%

	Weeki Wachee		0.001234708678%
Highlands		0.357188510237%	
	Highlands County		0.287621754986%
	Avon Park		0.025829016090%
	Lake Placid		0.005565267790%
	Sebring		0.038172471371%
Hillsborough		8.710984113657%	
	Hillsborough County		6.523111204400%
	Plant City		0.104218491142%
	Tampa		1.975671881253%
	Temple Terrace		0.107980721113%
Holmes		0.081612427851%	
	Holmes County		0.066805002459%
	Bonifay		0.006898026863%
	Esto		0.006269778036%
	Noma		0.001278286631%
	Ponce de Leon		0.000179759057%
	Westville		0.000179759057%
Indian River		0.753076058781%	
	Indian River County		0.623571460217%
	Fellsmere		0.004917045734%
	Indian River shores		0.025322422382%
	Orchid		0.000306861421%
	Sebastian		0.038315915467%
	Vero Beach		0.060642353558%
Jackson		0.158936058795%	
	Jackson County		0.075213731704%
	Alford		0.000303229925%
	Bascom		0.000061735434%
	Campbellton		0.001648699234%
	Cottondale		0.001093080329%
	Graceville		0.002794436257%
	Grandridge		0.000030867717%
	Greenwood		0.001292812616%
	Jacob City		0.000481173235%

	Malone		0.000092603151%
	Marianna		0.073519638768%
	Sneads		0.002404050426%
Jefferson		0.040821647784%	
	Jefferson County		0.037584169001%
	Monticello		0.003237478783%
Lafayette		0.031911772076%	
	Lafayette County		0.031555885457%
	Mayo		0.000355886619%
Lake		1.139211224519%	
	Lake County		0.757453827343%
	Astatula		0.002727253579%
	Clermont		0.075909163209%
	Eustis		0.041929254098%
	Fruitland Park		0.008381493024%
	Groveland		0.026154034992%
	Howey-In-The-Hills		0.002981458307%
	Lady Lake		0.025048244426%
	Leesburg		0.091339390185%
	Mascotte		0.011415608025%
	Minneola		0.016058475803%
	Montverde		0.001347285057%
	Mount Dora		0.041021380070%
	Tavares		0.031820984673%
	Umatilla		0.005623371728%
Lee		3.325371883359%	
	Lee County		2.115268407509%
	Bonita Springs		0.017374893143%
	Cape Coral		0.714429677167%
	Estero		0.012080171813%
	Fort Myers		0.431100350585%
	Fort Myers Beach		0.000522935440%
	Sanibel		0.034595447702%
Leon		0.897199244939%	
	Leon County		0.471201146391%

	Tallahassee		0.425998098549%
Levy		0.251192401748%	
	Levy County		0.200131750679%
	Bronson		0.005701448894%
	Cedar Key		0.005180329202%
	Chiefland		0.015326729337%
	Fanning Springs		0.000808007885%
	Inglis		0.004976965420%
	Otter Creek		0.000408543312%
	Williston		0.017774357715%
	Yankeetown		0.000884269303%
Liberty		0.019399452225%	
	Liberty County		0.019303217578%
	Bristol		0.000096234647%
Madison		0.063540287455%	
	Madison County		0.053145129837%
	Greenville		0.000110760631%
	Lee		0.000019973229%
	Madison		0.010264423758%
Manatee		2.721323346235%	
	Manatee County		2.201647174006%
	Anna Maria		0.009930326116%
	Bradenton		0.379930754632%
	Bradenton Beach		0.014012127744%
	Holmes Beach		0.028038781473%
	Longboat Key		0.034895046131%
	Palmetto		0.052869136132%
Marion		1.701176168960%	
	Marion County		1.303728892837%
	Belleview		0.009799592256%
	Dunnellon		0.018400790795%
	McIntosh		0.000145259844%
	Ocala		0.368994504094%
	Reddick		0.000107129135%
Martin		0.869487298116%	

	Martin County		0.750762795758%
	Jupiter Island		0.020873839646%
	Ocean Breeze Park		0.008270732393%
	Sewall's Point		0.008356072551%
	Stuart		0.081223857767%
Miami-Dade		5.232119784173%	
	Miami-Dade County		4.282797675552%
	Aventura		0.024619727885%
	Bal Harbour		0.010041086747%
	Bay Harbor Islands		0.004272455175%
	Biscayne Park		0.001134842535%
	Coral Gables		0.071780152131%
	Cutler Bay		0.009414653668%
	Doral		0.013977628531%
	El Portal		0.000924215760%
	Florida City		0.003929278792%
	Golden Beach		0.002847092951%
	Hialeah		0.098015895785%
	Hialeah Gardens		0.005452691411%
	Homestead		0.024935668046%
	Indian Creek		0.002543863026%
	Key Biscayne		0.013683477346%
	Medley		0.008748274131%
	Miami		0.292793005448%
	Miami Beach		0.181409572478%
	Miami Gardens		0.040683650932%
	Miami Lakes		0.007836768608%
	Miami Shores		0.006287935516%
	Miami Springs		0.006169911893%
	North Bay Village		0.005160355974%
	North Miami		0.030379280717%
	North Miami Beach		0.030391990953%
	Opa-locka		0.007847663096%
	Palmetto Bay		0.007404620570%
	Pinecrest		0.008296152866%

	South Miami		0.007833137111%
	Sunny Isles Beach		0.007693324511%
	Surfside		0.004869836285%
	Sweetwater		0.004116300842%
	Virginia Gardens		0.001172973244%
	West Miami		0.002654623657%
Monroe		0.476388738585%	
	Monroe County		0.330124785469%
	Islamorada		0.022357305808%
	Key Colony Beach		0.004751812661%
	Key West		0.088087385417%
	Layton		0.000150707089%
	Marathon		0.030916742141%
Nassau		0.476933463002%	
	Nassau County		0.392706357951%
	Callahan		0.000225152759%
	Fernandina Beach		0.083159445195%
	Hillard		0.000842507098%
Okaloosa		0.819212865955%	
	Okaloosa County		0.612059617545%
	Cinco Bayou		0.000733562214%
	Crestview		0.070440130066%
	Destin		0.014678507281%
	Fort Walton Beach		0.077837487644%
	Laurel Hill		0.000079892914%
	Mary Esther		0.009356549730%
	Niceville		0.021745398713%
	Shalimar		0.001824826796%
	Valparaiso		0.010456893052%
Okeechobee		0.353495278692%	
	Okeechobee County		0.314543851405%
	Okeechobee		0.038951427287%
Orange		4.671028214546%	
	Orange County		3.063330386979%
	Apopka		0.097215150892%

	Bay Lake		0.023566594013%
	Belle Isle		0.010798253686%
	Eatonville		0.008325204835%
	Edgewood		0.009716067845%
	Lake Buena Vista		0.010355211161%
	Maitland		0.046728276209%
	Oakland		0.005429086686%
	Ocoee		0.066599822928%
	Orlando		1.160248481490%
	Windemere		0.007548064667%
	Winter Garden		0.056264584996%
	Winter Park		0.104903028159%
Osceola		1.073452092940%	
	Osceola County		0.837248691390%
	Kissimmee		0.162366006872%
	St. Cloud		0.073837394678%
Palm Beach		8.601594372053%	
	Palm Beach County		5.552548475026%
	Atlantis		0.018751230169%
	Belle Glade		0.020828445945%
	Boca Raton		0.472069073961%
	Boynton Beach		0.306498271771%
	Briny Breezes		0.003257452012%
	Cloud Lake		0.000188837798%
	Delray Beach		0.351846579457%
	Glen Ridge		0.000052656694%
	Golf		0.004283349663%
	Greenacres		0.076424835657%
	Gulf Stream		0.010671151322%
	Haverhill		0.001084001589%
	Highland Beach		0.032510968934%
	Hypoluxo		0.005153092982%
	Juno Beach		0.016757538804%
	Jupiter Island		0.125466374888%
	Jupiter Inlet Colony		0.005276563849%

	Lake Clarke Shores		0.007560774903%
	Lake Park		0.029433275980%
	Lake Worth		0.117146617298%
	Lantana		0.024507151505%
	Loxahatchee Groves		0.002531152789%
	Manalapan		0.021632822333%
	Mangonia Park		0.010696571795%
	North Palm Beach		0.044349646256%
	Ocean Ridge		0.012786497807%
	Pahokee		0.004018250447%
	Palm Beach		0.185476848123%
	Palm Beach Gardens		0.233675880257%
	Palm Beach Shores		0.014135598612%
	Palm Springs		0.038021764282%
	Riviera Beach		0.163617057282%
	Royal Palm Beach		0.049295743959%
	South Bay		0.001830274040%
	South Palm Beach		0.005866681967%
	Tequesta		0.031893614595%
	Wellington		0.050183644758%
	West Palm Beach		0.549265602541%
Pasco		4.692087260494%	
	Pasco County		4.319205239813%
	Dade City		0.055819726723%
	New Port Richey		0.149879107494%
	Port Richey		0.049529975458%
	San Antonio		0.002189792155%
	St. Leo		0.002790804761%
	Zephyrhills		0.112672614089%
Pinellas		7.934889816777%	
	Pinellas County		4.546593184553%
	Belleair		0.018095745121%
	Belleair Beach		0.004261560686%
	Belleair Bluffs		0.007502670965%
	Belleair Shore		0.000439411029%

	Clearwater		0.633863120196%
	Dunedin		0.102440873796%
	Gulfport		0.047893986460%
	Indian Rocks Beach		0.008953453662%
	Indian Shores		0.011323004874%
	Kenneth City		0.017454786058%
	Largo		0.374192990777%
	Madeira Beach		0.022616957779%
	North Reddington Beach		0.003820333909%
	Oldsmar		0.039421706033%
	Pinellas Park		0.251666311991%
	Redington Beach		0.003611522882%
	Redington Shores		0.006451352841%
	Safety Harbor		0.038061710740%
	Seminole		0.095248695748%
	South Pasadena		0.029968921656%
	St. Pete Beach		0.071791046619%
	St. Petersburg		1.456593090134%
	Tarpon Springs		0.101970595050%
	Treasure Island		0.040652783215%
Polk		2.150483025298%	
	Polk County		1.558049828484%
	Auburndale		0.028636162584%
	Bartow		0.043971970660%
	Davenport		0.005305615818%
	Dundee		0.005597951255%
	Eagle Lake		0.002580177987%
	Fort Meade		0.007702403251%
	Frostproof		0.005857603227%
	Haines City		0.047984773863%
	Highland Park		0.000063551182%
	Hillcrest Heights		0.000005447244%
	Lake Alfred		0.007489960729%
	Lake Hamilton		0.002540231530%
	Lakeland		0.294875668468%

	Lake Wales		0.036293172134%
	Mulberry		0.005414560702%
	Polk City		0.001080370093%
	Winter Haven		0.097033576087%
Putnam		0.384893194068%	
	Putnam County		0.329225990182%
	Crescent City		0.005561636294%
	Interlachen		0.001877483489%
	Palatka		0.046955244716%
	Pomona Park		0.000379491344%
	Welaka		0.000893348043%
Santa Rosa		0.701267319513%	
	Santa Rosa County		0.592523984216%
	Gulf Breeze		0.061951507906%
	Jay		0.000159785829%
	Milton		0.046632041562%
Sarasota		2.805043857579%	
	Sarasota County		1.924315263251%
	Longboat Key		0.044489458856%
	North Port		0.209611771277%
	Sarasota		0.484279979635%
	Venice		0.142347384560%
Seminole		2.141148264544%	
	Seminole County		1.508694164839%
	Altamonte Springs		0.081305566430%
	Casselberry		0.080034542791%
	Lake Mary		0.079767627827%
	Longwood		0.061710013415%
	Oviedo		0.103130858057%
	Sanford		0.164243490362%
	Winter Springs		0.062262000824%
St. Johns		0.710333349554%	
	St. Johns County		0.656334818131%
	Hastings		0.000010894488%
	Marineland		0.000000000000%

	St. Augustine		0.046510386442%
	St. Augustine Beach		0.007477250493%
St. Lucie		1.506627843552%	
	St. Lucie County		0.956156584302%
	Fort Pierce		0.159535255654%
	Port St. Lucie		0.390803453989%
	St. Lucie Village		0.000132549608%
Sumter		0.326398870459%	
	Sumter County		0.302273026046%
	Bushnell		0.006607507174%
	Center Hill		0.001312785844%
	Coleman		0.000748088199%
	Webster		0.001423546476%
	Wildwood		0.014033916721%
Suwannee		0.191014879692%	
	Suwannee County		0.161027800555%
	Branford		0.000929663004%
	Live Oak		0.029057416132%
Taylor		0.092181897282%	
	Taylor County		0.069969851319%
	Perry		0.022212045963%
Union		0.065156303224%	
	Union County		0.063629259109%
	Lake Butler		0.001398126003%
	Raiford		0.000012710236%
	Worthington Springs		0.000116207876%
Volusia		3.130329674480%	
	Volusia County		1.708575342287%
	Daytona Beach		0.447556475212%
	Daytona Beach Shores		0.039743093439%
	DeBary		0.035283616215%
	DeLand		0.098983689498%
	Deltona		0.199329190038%
	Edgewater		0.058042202343%
	Flagler Beach		0.000223337011%

	Holly Hill		0.031615805143%
	Lake Helen		0.004918861482%
	New Smyrna Beach		0.104065968306%
	Oak Hill		0.004820811087%
	Orange City		0.033562287058%
	Ormond Beach		0.114644516477%
	Pierson		0.002333236251%
	Ponce Inlet		0.023813535748%
	Port Orange		0.177596501562%
	South Daytona		0.045221205323%
Wakulla		0.115129321208%	
	Wakulla County		0.114953193647%
	Sopchoppy		0.000107129135%
	St. Marks		0.000068998426%
Walton		0.268558216151%	
	Walton County		0.224268489581%
	DeFuniak Springs		0.017057137234%
	Freeport		0.003290135477%
	Paxton		0.023942453860%
Washington		0.120124444109%	
	Washington County		0.104908475404%
	Caryville		0.001401757499%
	Chipley		0.012550450560%
	Ebro		0.000221521263%
	Vernon		0.000361333863%
	Wausau		0.000680905521%
		100.00%	100.00%

WILMINGTON TRUST

EXHIBIT J

ESCROW AGREEMENT

This Escrow Agreement dated this ___ day of _____, 2022 (the "**Escrow Agreement**"), is entered into by and among STATE OF FLORIDA, OFFICE OF ATTORNEY GENERAL – DEPARTMENT OF LEGAL AFFAIRS, a GOVERNMENT ENTITY LOCATED IN THE UNITED STATES ("**State")**, and Wilmington Trust, National Association, as escrow agent ("**Escrow Agent**").

RECITALS

WHEREAS, the people of the State and its communities allege that they have been harmed by misfeasance, nonfeasance and malfeasance committed by certain entities within the Pharmaceutical Supply Chain with respect to the manufacture, distribution, and dispensing of opioid products; and

WHEREAS, the State, through its Attorney General, and certain counties, cities, towns, and other municipalities, through their elected representatives and counsel, are separately engaged in litigation against many of the same Pharmaceutical Supply Chain Participants in connection with the manufacture, distribution, and dispensing of opioid products (collectively referred to as the "**Litigation**"); and

WHEREAS, certain of the Pharmaceutical Supply Chain entities have separately settled or may separately settle with the State (collectively referred to as the "**Settlements**" or individually as a "**Settlement**") conditioned on obtaining joinder and participation in those settlements from the certain of the State's counties, cities, towns, and other municipalities (collectively referred to as the "**Local Governments**"); and

WHEREAS, the State and its Local Governments have entered into an agreement entitled the Florida Opioid Allocation and Statewide Response Agreement (the "**Agreement**") under which the State and its Local Governments have agreed to the allocation and distribution from the Settlements relating to the Litigation; and

WHEREAS, it is necessary for the State to enter into this Escrow Agreement with the Escrow Agent to allow for the distribution of proceeds from each of the Settlements to the Local Governments and the State pursuant to the Agreement; and

WHEREAS, the State seeks to establish this account as a Qualified Settlement Fund as that term is utilized in section 468B of the Internal Revenue Code of 1986, as amended, and Treasury Regulation Sections 26 C.F.R. §1.468B-1 et seq.; and

WHEREAS, the State has sought and received an order from the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, West Pasco Division New Port Richey, Florida (the "**Court**") ordering the creation of this account and approving the form of this Escrow Agreement and the State is subject to continuing jurisdiction by the Court; and

WHEREAS, the State is establishing this account to resolve or satisfy one or more contested claims with respect to the manufacture, distribution, and dispensing of opioid products against Pharmaceutical Supply Chain Participants who have settled their claims against the State and/or Local Governments arising out of alleged tortious conduct and/or violations of law; and

WHEREAS, the funds placed in the account are segregated from other funds and assets belonging to the State; and

NOW, THEREFORE, in consideration of the premises, and further consideration of the covenants set forth hereafter, it is hereby agreed mutually as follows:

ARTICLE 1
ESCROW DEPOSIT

1.1. Receipt of Escrow Property.

(a) Upon execution of this Escrow Agreement by each of the parties hereto, the State shall cause funds from a Settlement in the amount of **$215,000,000** to be deposited into a United States Dollar denominated account (the "**Escrow Account**") established by the Escrow Agent. The Escrow Account is set forth below:

[_____]

(b) The Escrow Agent will hold the deposit and any subsequent deposits in the Escrow Account, together with all investments thereof and all interest accumulated thereon and proceeds therefrom (the "**Escrow Property**"), in escrow upon the terms and conditions set forth in this Escrow Agreement and shall not disburse funds from the Escrow Account except as provided herein.

(c) The State may further request that Escrow Property in the Walmart Account be further subdivided into sub-accounts within the Walmart Account in accordance with the State's settlement agreement with Walmart (the "Walmart Agreement"). The State shall provide directions prior to or soon after deposit on how Escrow Property shall be subdivided. The State may adjust or transfer Escrow Property between sub-accounts within the Walmart Account after receipt consistent with the terms of the Walmart Agreement. Based on the Walmart Agreement it is expected that the Walmart Account may be divided into five sub-accounts: (1) a State sub-account; (2) a city/county or subdivision sub-account; (3) an abatement sub-account; (4) a State attorney's fees and costs sub-account; and (5) a Local Government attorney's fee and costs sub-account.

1.2. Investments.

(a) The Escrow Agent shall invest the Escrow Property in accordance with the written instructions provided to the Escrow Agent and signed by the State in such investments (i) as shall from time to time be selected by the State and (ii) be investments the Escrow Agent is able to hold. In all events, the proceeds shall be managed in a manner designed to preserve principal and accrue income by investing in instruments/securities comprised of (a) United States Agency, Government Sponsored Enterprises or Treasury securities or obligations (or a mutual fund invested solely in such instruments); (b) cash equivalent securities including SEC registered money market funds and collateralized money market accounts; and/or (c) deposit and similar interest-bearing, or non-interest bearing accounts, and certificates of deposit subject to Federal Depository Insurance Corporation protections as available. In the absence of written investment instructions from the State, the Escrow Agent shall hold the Escrow Property un-invested, without interest thereon. For the avoidance of doubt, any investment earnings and income on the Escrow Property shall become part of the Escrow Property, and shall be disbursed in accordance with Section 1.3 below. The Escrow Agent shall make no disbursement, investment or other use of funds until and unless it has collected funds. The Escrow Agent shall not be liable for collection items until such proceeds have been received or the Federal Reserve has given the Escrow Agent credit for the funds.

(b) The Escrow Agent is hereby authorized and directed to sell or redeem any such investments as it deems necessary to make any payments or distributions required under this Escrow Agreement. The Escrow Agent shall have no responsibility or liability for any loss which may result from any investment or sale of investment made pursuant to this Escrow Agreement. The Escrow Agent is hereby authorized, in making or disposing of any investment permitted by this Escrow Agreement, to deal with itself (in its individual capacity) or with any one or more of its affiliates, whether it or any such affiliate is acting as agent of the Escrow Agent or for any third person or dealing as principal for its own account. The Parties acknowledge that the Escrow Agent is not providing investment supervision, recommendations, or advice.

(c) In the event that market conditions are such that negative interest applies to amounts deposited with the Escrow Agent, the State shall be responsible for the payment of such interest and the Escrow Agent shall be entitled to deduct from amounts on deposit with it an amount necessary to pay such negative interest. For the avoidance of doubt, the indemnification protections afforded to the Escrow Agent under Section 3.1 of this Agreement shall cover any interest-related expenses (including, but not limited to, negative interest) incurred by the Escrow Agent in the performance of its duties hereunder.

1.3. Disbursements.

(a) The State shall provide direction to Escrow Agent of any disbursement of Escrow Property and all directions shall be in writing (a "**Written Direction**" and as used herein, the term "**Written Direction**" may refer, variably, to a writing substantially in the form of either Exhibit "A-1" or Exhibit "A-2," as the context may require). It is expected that disbursements of Escrow Property will happen periodically depending on the terms of the Settlements. It is expected that at least two disbursements will be made in the first calendar year of the Escrow Agreement.

(b) In the event that Escrow Agent makes any payment to any other party pursuant to this Escrow Agreement and for any reason such payment (or any portion thereof) is required to be returned to the Escrow Account or another party or is subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a receiver, trustee or other party under any bankruptcy or insolvency law, other federal or state law, common law or equitable doctrine, then the recipient shall repay to the Escrow Agent upon written request the amount so paid to it.

(c) The Escrow Agent shall, in its sole discretion, comply with judgments or orders issued or process entered by any court with respect to the Escrow Property, including without limitation any attachment, levy or garnishment, without any obligation to determine such court's jurisdiction in the matter and in accordance with its normal business practices. If the Escrow Agent complies with any such judgment, order or process, then Escrow Agent shall not be liable to the State or any other person by reason of such compliance, regardless of the final disposition of any such judgment, order or process.

(d) The State understands and agrees that the Escrow Agent shall have no obligation or duty to act upon a Written Direction delivered to the Escrow Agent for the disbursement of Escrow Property under this Escrow Agreement if such Written Direction is not (i) in writing, (ii) signed by, in the case of the State, any individual designated by the State on Exhibit B hereto (each such individual an "**Authorized Representative**"), and (iii) delivered to, and able to be authenticated by, the Escrow Agent in accordance with Section 1.5.

(e) Upon request, the Escrow Agent will furnish monthly statements to the State setting forth the activity in the Escrow Account. Upon request by the State, the Escrow Agent will furnish monthly statements to Walmart setting forth the activity in the Walmart Account (including all constituent sub-accounts of the Walmart Account). the Escrow Agent will furnish monthly statements to that

Pharmaceutical Supply Chain Participant setting forth the activity in that Pharmaceutical Supply Chain Participant's Sub-Fund (including all constituent sub-funds of that Sub-Fund) within the Escrow Account.

(f) The State may specify in a Written Direction whether the Escrow Property shall be disbursed by way of wire transfer or check. If the written notice for the disbursement of funds does not so specify the disbursement means, the Escrow Agent may disburse the Escrow Property by any means chosen by the Escrow Agent.

1.4. Written Direction and Other Instruction.

(a) With respect to any Written Direction or any other notice, direction or other instruction required to be delivered by the State to the Escrow Agent under this Escrow Agreement, the Escrow Agent is authorized to follow and rely upon any and all such instructions given to it from time to time if the Escrow Agent believes, in good faith, that such instruction is genuine and to have been signed by an Authorized Representative of the State. The Escrow Agent shall have no duty or obligation to verify that the person who sent such instruction is, in fact, a person duly authorized to give instructions on behalf of the State, other than to verify that the signature of the Authorized Representative on any such instruction appears to be the signature of such person The State acknowledges and agrees that it is fully informed of the protections and risks associated with the various methods of transmitting instructions to the Escrow Agent, and that there may be more secure methods of transmitting instructions other than the method selected by the State. The Escrow Agent shall have no responsibility or liability for any loss which may result from:

(i) any action taken or not taken by the Escrow Agent in good faith reliance on any such signatures, telephonic and email confirmations or instructions;

(ii) the State's reliance upon or use of any particular method of delivering instructions to the Escrow Agent, including the risk of interception of such instruction and misuse by third parties; or

(iii) any officer or Authorized Representative named in an incumbency certificate or Exhibit B delivered hereunder prior to actual receipt by the Escrow Agent of a more current incumbency certificate or an updated Exhibit B and a reasonable time for the Escrow Agent to act upon such updated or more current certificate or Exhibit.

(b) The State may, at any time, update Exhibit B by signing and submitting to the Escrow Agent an updated Exhibit. An updated Exhibit B shall constitute a Written Direction that is subject to the authentication and security requirements set forth in Section 1.5 below. Any updated Exhibit shall not be effective unless the Escrow Agent countersigns a copy thereof. The Escrow Agent shall be entitled to a reasonable time to act to implement any changes on an updated Exhibit.

1.5. Delivery and Authentication of Written Direction.

(a) A Written Direction must be delivered to the Escrow Agent by one of the delivery methods set forth in Section 4.3.

(b) The State and the Escrow Agent hereby agree that the following security procedures will be used to verify the authenticity of a Written Direction delivered by the State to the Escrow Agent under this Escrow Agreement:

(i) The Written Direction must include the name and signature of the person delivering the disbursement request to the Escrow Agent. The Escrow Agent will check that the name and signature of the person identified on the Written Direction appears to be the same as the name and signature of an Authorized Representative;

(ii) The Escrow Agent will make a telephone call to the Authorized Representative purporting to deliver the Written Direction (which Authorized Representative shall be the same as the Authorized Representative who delivered the Written Direction) at any telephone number for such Authorized Representative as set forth on Exhibit B, as applicable, to obtain oral confirmation of delivery of the Written Direction; and

(iii) If the Written Direction is sent by email to the Escrow Agent, the Escrow Agent also shall review such email address to verify that it appears to have been sent from an email address for an Authorized Representative as set forth on Exhibit B, or from an email address for a person authorized under Exhibit B, to email a Written Direction to the Escrow Agent on behalf of the Authorized Representative).

(c) The State acknowledges and agrees that given its particular circumstances, including the nature of its business, the size, type and frequency of its instructions, transactions and files, internal procedures and systems, the alternative security procedures offered by the Escrow Agent and the security procedures in general use by other customers and banks similarly situated, the security procedures set forth in this Section 1.5 are a commercially reasonable method of verifying the authenticity of a payment order in a Written Direction.

(d) The Escrow Agent is authorized to execute and the State expressly agrees to be bound by any payment order in a Written Direction issued in its name (and associated funds transfer) (i) that is accepted by the Escrow Agent in accordance with the security procedures set forth in this Section 1.5, whether or not authorized by the State and/or (ii) that is authorized by or on behalf of the State or for which the State is otherwise bound under the law of agency, whether or not the security procedures set forth in this Section 1.5 were followed, and to debit the Escrow Account for the amount of the payment order. Notwithstanding anything else, the Escrow Agent shall be deemed to have acted in good faith and without negligence, gross negligence or misconduct if the Escrow Agent is authorized to execute the payment order under this Section 1.5. Any action taken by the Escrow Agent pursuant to this Section 1.5 prior to the Escrow Agent's actual receipt and acknowledgement of a notice of revocation, cancellation or amendment of a Written Direction shall not be affected by such notice of revocation, cancellation or amendment of a Written Direction.

(e) The security procedures set forth in this Section 1.5 are intended to verify the authenticity of payment orders provided to the Escrow Agent and are not designed to, and do not, detect errors in the transmission or content of any payment order. The Escrow Agent is not responsible for detecting an error in the payment order, regardless of whether the State believes the error was apparent, and the Escrow Agent is not liable for any losses arising from any failure to detect an error.

(f) When instructed to credit or pay a party by both name and a unique numeric or alpha-numeric identifier (e.g. ABA number or account number), the Escrow Agent, and any other banks participating in the funds transfer, may rely solely on the unique identifier, even if it identifies a party different than the party named. The State agrees to be bound by the rules of any funds transfer network used in connection with any payment order accepted by the Escrow Agent hereunder.

(g) The Escrow Agent shall not be obliged to make any payment requested under this Escrow Agreement if it is unable to validate the authenticity of the request by the security procedures set forth in

this Section 1.5. The Escrow Agent's inability to confirm a payment order may result in a delay or failure to act on that payment order. Notwithstanding anything else in this Escrow Agreement, the Escrow Agent shall not be required to treat a payment order as having been received until the Escrow Agent has authenticated it pursuant to the security procedures in this Section 1.5 and shall not be liable or responsible for any losses arising in relation to such delay or failure to act.

1.6. Income Tax Allocation and Reporting.

(a) The Escrow Account shall be treated at all times as a "Qualified Settlement Fund" within the meaning of Treas. Reg. § 1.468B-1. The State and Escrow Agent, in cooperation with settling Pharmaceutical Supply Chain Participants shall jointly and timely take such actions as necessary or advisable to qualify the Escrow Account as a "Qualified Settlement Fund" within the meaning of Treas. Reg. § 1.468B-1 and fulfill the requirements of such Treasury Regulation, including making a "relation-back election" under Treas. Reg. § 1.468B-1(j)(2), if applicable, to the earliest permitted date. If applicable, Settlement Fund Administrator (as defined below) will prepare, or cause to have prepared, the "relation-back election" pursuant to Treas. Reg. § 1.468B-1(j)(2) for execution by the relevant settling Pharmaceutical Supply Chain Participants and the State and attach to it the Escrow Account's first income tax return. For purposes of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the "administrator" of the Escrow Account shall be Wilmington Trust National Association as the settlement fund administrator (the "Settlement Fund Administrator") and Settlement Fund Administrator shall take all actions to ensure that the Settlement Fund Administrator qualifies as such. Settlement Fund Administrator shall timely and properly prepare, deliver to all necessary parties for signature, and file all necessary documentation for any elections required or advisable under Treas. Reg. §1.468B-1. Settlement Fund Administrator will obtain an employer identification number for the Escrow Account and timely prepare, or cause to have prepared, a "Regulation Section 1.468B-3 Statement" pursuant to Treas. Reg. §1.468B-3(e) on behalf of the settling Pharmaceutical Supply Chain Participants and provide copies to each settling Pharmaceutical Supply Chain Participant's counsel for review and approval. Settlement Fund Administrator shall timely and properly prepare and file any informational and other tax returns (including state, local or foreign) necessary or advisable with respect to the Escrow Account and the distributions and payments therefrom including without limitation the returns described in Treas. Reg. §1.468B-2(k), and to the extent applicable Treas. Reg. §1.468B-2(1).

(b) Prior to the execution of this Escrow Agreement, or within two days thereafter, the State shall provide the Escrow Agent with certified tax identification numbers by furnishing appropriate IRS form W-9 and such other forms and documents that the Escrow Agent may request. The State understands that if such tax reporting documentation is not provided and certified to the Escrow Agent, the Escrow Agent may be required by the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, to withhold a portion of any interest or other income earned on the investment of the Escrow Property.

(c) To the extent that the Escrow Agent becomes liable for the payment of any taxes in respect of income derived from the investment of the Escrow Property, the Escrow Agent shall satisfy such liability to the extent possible from the Escrow Property. Settlement Fund Administrator shall be responsible for the timely and proper preparation and delivery of any necessary documentation for signature by all necessary parties, and the timely filing of all tax returns and other tax reports required by law. No settling Pharmaceutical Supply Chain Participant nor their respective counsel shall have any liability or responsibility for taxes or tax expenses, for preparing (or paying for others to prepare) tax returns, tax reports, or calculation of any tax payments, or for obtaining or maintaining the tax status desired for the Escrow Account. If any portion of the Escrow Account is returned to a settling Pharmaceutical Supply Chain Participant pursuant to the terms of a Settlement, that settling Pharmaceutical Supply Chain Participant shall provide Escrow Agent with a properly completed IRS Form W-9.

1.7. Termination. This Escrow Agreement shall terminate on December 31, 2039, at which time the Escrow Agent is authorized and directed to disburse the Escrow Property in accordance with Section 1.3 (Disbursements) and this Escrow Agreement shall be of no further force and effect, except that the provisions of Sections 1.6 (Tax Allocation and Reporting), and 3.2 (Limitation of Liability) hereof shall survive termination.

ARTICLE 2
DUTIES OF THE ESCROW AGENT

2.1. Scope of Responsibility. Notwithstanding any provision to the contrary, the Escrow Agent is obligated only to perform the duties expressly and specifically set forth in this Escrow Agreement, which shall be deemed purely ministerial in nature. Under no circumstances will the Escrow Agent be deemed to be a fiduciary to the State or any other person under this Escrow Agreement or otherwise. The Escrow Agent will not be responsible or liable for the failure of the State to perform in accordance with this Escrow Agreement. The Escrow Agent shall neither be responsible for, nor chargeable with, knowledge of the terms and conditions of any other agreement, instrument, or document other than this Escrow Agreement, whether or not an original or a copy of such agreement has been provided to the Escrow Agent; and the Escrow Agent shall have no duty to know or inquire as to the performance or nonperformance of any provision of any such agreement, instrument, or document. References in this Escrow Agreement to any other agreement, instrument, or document are for the convenience of the parties and the Escrow Agent has no duties or obligations with respect thereto. The Escrow Agent acts hereunder as escrow agent only, and is not responsible or liable in any manner whatsoever for the sufficiency, correctness, genuineness or validity of the subject matter of this Escrow Agreement or any part thereof. The Escrow Agent shall have no responsibilities (except as expressly set forth herein) as to the validity, sufficiency, value, genuineness, ownership or transferability of the Escrow Property, written instructions, or any other documents in connection therewith, and will not be regarded as making nor be required to make, any representations thereto. This Escrow Agreement sets forth all matters pertinent to the escrow contemplated hereunder, and no additional obligations of the Escrow Agent shall be inferred or implied from the terms of this Escrow Agreement, any other agreement or otherwise.

All rights, protections, privileges, indemnities and benefits granted or afforded the Escrow Agent under this Agreement shall be deemed applicable to all actions taken, suffered or omitted by the Settlement Fund Administrator under this Agreement. Additionally, information provided to Wilmington Trust in its capacity as Escrow Agent will not be imputed to be known by the Settlement Fund Administrator unless Wilmington Trust in that capacity has been made aware of such information as well.

2.2. Rights of the Escrow Agent. No provision of this Escrow Agreement shall require the Escrow Agent to expend or risk its own funds or otherwise incur any financial liability or potential financial liability in the performance of its duties or the exercise of its rights under this Escrow Agreement. The Escrow Agent shall not be obligated to take any legal action or to commence any proceedings in connection with this Escrow Agreement or any property held hereunder or to appear in, prosecute or defend in any such legal action or proceedings. The Escrow Agent shall be protected in acting upon any written instruction, notice, request, waiver, consent, certificate, receipt, authorization, power of attorney or other paper or document which the Escrow Agent in good faith believes to be genuine and what it purports to be, including, but not limited to, items directing investment or non-investment of funds, items requesting or authorizing release, disbursement or retainage of the subject matter of this Escrow Agreement and items amending the

terms of this Escrow Agreement, provided that the Escrow Agent complies with the security procedures governing written instructions set forth in Section 1.5 above.

2.3. Attorneys and Agents. The Escrow Agent shall be entitled to rely on and shall not be liable for any action taken or omitted to be taken by the Escrow Agent in accordance with the advice of counsel or other professionals retained or consulted by the Escrow Agent. The Escrow Agent shall be reimbursed as set forth in Section 3.1 for any and all compensation (fees, expenses and other costs) paid and/or reimbursed to such counsel and/or professionals. The Escrow Agent may perform any and all of its duties through its agents, representatives, attorneys, custodians, and/or nominees and shall not be responsible for the acts or omissions of such agents, representatives, attorneys, custodians or nominees appointed with due care.

2.4. Right Not Duty Undertaken. The permissive rights of the Escrow Agent to do things enumerated in this Escrow Agreement shall not be construed as duties.

ARTICLE 3
PROVISIONS CONCERNING THE ESCROW AGENT

3.1. Indemnification. The Escrow Agent shall have a first lien against the Escrow Account to secure the obligations of the parties hereunder. The terms of this paragraph shall survive termination of this Escrow Agreement.

3.2. Limitation of Liability. THE ESCROW AGENT SHALL NOT BE LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY (I) DAMAGES, LOSSES OR EXPENSES ARISING OUT OF OR IN CONNECTION WITH THIS ESCROW AGREEMENT, THE ESCROW ACCOUNT, THE ESCROW PROPERTY, OR THE SERVICES PROVIDED HEREUNDER, OTHER THAN DAMAGES, LOSSES OR EXPENSES WHICH HAVE BEEN FINALLY ADJUDICATED TO HAVE DIRECTLY RESULTED FROM THE ESCROW AGENT'S NEGLIGENCE, OR WILLFUL MISCONDUCT, (II) SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES OR LOSSES OF ANY KIND WHATSOEVER (INCLUDING WITHOUT LIMITATION LOST PROFITS), EVEN IF THE ESCROW AGENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES AND REGARDLESS OF THE FORM OF ACTION, OR (III) ANY AMOUNT IN EXCESS OF THE VALUE OF THE ESCROW PROPERTY.

3.3. Resignation or Removal. The Escrow Agent may, at any time, resign as escrow agent hereunder by furnishing written notice of its resignation to the State. At such time, all fees and expenses to which the Escrow Agent is entitled shall be immediately due and payable to Escrow Agent. The State may remove the Escrow Agent by furnishing to the Escrow Agent a written notice of its removal along with payment of all fees and expenses to which it is entitled through the date of termination. Such resignation or removal, as the case may be, shall be effective thirty (30) days after the delivery of such notice or upon the earlier appointment of a successor, and the Escrow Agent's sole responsibility thereafter shall be to safely keep the Escrow Property and to deliver the same to a successor escrow agent as shall be appointed by the State, as evidenced by a joint written notice filed with the Escrow Agent or in accordance with a court order. If the State has failed to appoint a successor escrow agent prior to the expiration of thirty (30) days following the delivery of such notice of resignation or removal, the Escrow Agent shall be entitled, at its sole discretion and at the expense of State, to petition any court of competent jurisdiction for the appointment of a successor escrow agent or for other appropriate relief, and any such resulting appointment shall be binding upon the State.

3.4. Compensation. (a) The Escrow Agent shall be entitled to compensation for its services as stated in the fee schedule attached hereto as Exhibit C, which compensation shall be paid by the State. Such compensation is intended for the Escrow Agent's services as contemplated by this Escrow Agreement. In addition to such compensation, in the event that the conditions for the disbursement of funds under this Escrow Agreement are not fulfilled, or the Escrow Agent renders any service not contemplated in this Escrow Agreement, or there is any assignment of interest in the subject matter of this Escrow Agreement, or any material modification hereof, or if any material controversy arises hereunder, then the Escrow Agent shall be compensated for such extraordinary services and any services or work performed by Escrow Agent in connection with any delay, controversy, and reimbursed for all costs and expenses.

The terms of this Section 3.4 shall survive termination of this Escrow Agreement.

3.5. Disagreements. If any conflict, disagreement or dispute arises between, among, or involving any of the parties hereto concerning the meaning or validity of any provision hereunder or concerning any other matter relating to this Escrow Agreement, or the Escrow Agent is in doubt as to the action to be taken hereunder, the Escrow Agent may, at its option, refuse to act until the Escrow Agent (a) receives a final non-appealable order of a court of competent jurisdiction directing delivery of the Escrow Property or (b) receives a written instruction, executed by each of the parties involved in such disagreement or dispute, in a form reasonably acceptable to the Escrow Agent, directing delivery of the Escrow Property. The Escrow Agent will be entitled to act on any such written instruction or final, non-appealable order of a court of competent jurisdiction without further question, inquiry or consent. The Escrow Agent may file an interpleader action in a state or federal court, and upon the filing thereof, the Escrow Agent will be relieved of all liability as to the Escrow Property and will be entitled to recover reasonable and documented out-of-pocket attorneys' fees, expenses and other costs incurred in commencing and maintaining any such interpleader action. In the event the Escrow Agent receives conflicting instructions hereunder, the Escrow Agent shall be fully protected in refraining from acting until such conflict is resolved to the satisfaction of the Escrow Agent.

3.6. Merger or Consolidation. Any corporation or association into which the Escrow Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer all or substantially all of its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which the Escrow Agent is a party, shall be and become the successor escrow agent under this Escrow Agreement and shall have and succeed to the rights, powers, duties, immunities and privileges as its predecessor, without the execution or filing of any instrument or paper or the performance of any further act.

3.7. Attachment of Escrow Property; Compliance with Legal Orders. In the event that any Escrow Property shall be attached, garnished or levied upon by any court order, or the delivery thereof shall be stayed or enjoined by an order of a court, or any order, judgment or decree shall be made or entered by any court order affecting the Escrow Property, the Escrow Agent is hereby expressly authorized, in its sole discretion, to respond as it deems appropriate or to comply with all writs, orders or decrees so entered or issued, or which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction. In the event that the Escrow Agent obeys or complies with any such writ, order or decree it shall not be liable to the State or to any other person, firm or corporation, should, by reason of such compliance notwithstanding, such writ, order or decree be subsequently reversed, modified, annulled, set aside or vacated.

3.8. Force Majeure. The Escrow Agent shall not be responsible or liable for any failure or delay in the performance of its obligation under this Escrow Agreement arising out of or caused, directly or indirectly,

by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fire; flood; wars; acts of terrorism; civil or military disturbances; sabotage; epidemic; riots; interruptions; loss or malfunctions of utilities including but not limited to, computer (hardware or software), payment systems, or communications services; hacking, cyber-attacks or other unauthorized infiltration of Escrow Agent's information technology infrastructure; accidents; labor disputes; acts of civil or military authority or governmental action; it being understood that the Escrow Agent shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.

3.9. Compliance with Legal Orders. The Escrow Agent shall be entitled to consult with legal counsel in the event that a question or dispute arises with regard to the construction of any of the provisions hereof, and shall incur no liability to the State premised on the contention that the Escrow Agent should not have sought or relied on the advice of counsel.

3.10. No Financial Obligation. The Escrow Agent shall not be required to use its own funds in the performance of any of its obligations or duties or the exercise of any of its rights or powers, and shall not be required to take any action which, in the Escrow Agent's sole and absolute judgment, could involve it in expense or liability unless furnished with security which it deems, in its sole and absolute discretion, to be satisfactory.

ARTICLE 4
MISCELLANEOUS

4.1. Successors and Assigns. This Escrow Agreement shall be binding on and inure to the benefit of the State and the Escrow Agent and their respective successors and permitted assigns. No other persons shall have any rights under this Escrow Agreement. No assignment of the interest of any of the State and the Escrow Agent shall be binding unless and until written notice of such assignment shall be delivered to the other party and the Escrow Agent and shall require the prior written consent of the other party and the Escrow Agent (such consent not to be unreasonably withheld).

4.2. Escheat. The State is aware that under applicable state law, property which is presumed abandoned may under certain circumstances escheat to the applicable state. The Escrow Agent shall have no liability to the State or any other party, should any or all of the Escrow Property escheat by operation of law.

4.3. Notices. All notices, requests, demands, and other communications required under this Escrow Agreement shall be in writing, in English, and shall be deemed to have been duly given if delivered (i) personally, (ii) by facsimile transmission with written confirmation of receipt, (iii) by overnight delivery with a reputable national overnight delivery service, (iv) by mail or by certified mail, return receipt requested, and postage prepaid, or (v) by electronic transmission; including by way of e-mail (as long as such email is accompanied by a PDF or similar version of the relevant document bearing the signature of an Authorized Representative for the party sending the notice) with email confirmation of receipt. If any notice is mailed, it shall be deemed given five business days after the date such notice is deposited in the United States mail. If notice is given to a party, it shall be given at the address for such party set forth below. It shall be the responsibility of the State to notify the Escrow Agent in writing of any name or address changes. In the case of communications delivered to the Escrow Agent, such communications shall be deemed to have been given on the date received by the Escrow Agent.

If to the State:
STATE OF FLORIDA, OFFICE OF ATTORNEY GENERAL
The Capitol, PL-01

Tallahassee, FL 32399-1050
Attention: John Guard, Chief Deputy Attorney General
Telephone: (850) 544-8303
Facsimile:
Email address: john.guard@myfloridalegal.com

With a copy to:
STATE OF FLORIDA, OFFICE OF ATTORNEY GENERAL
The Capitol, PL-01
Tallahassee, FL 32399-1050
Attention: Sabrina Donovan, Director of Administration
Telephone: (850) 414-3535
Facsimile:
Email address: sabrina.donovan@myfloridalegal.com

And a copy to:
STATE OF FLORIDA, OFFICE OF ATTORNEY GENERAL
The Capitol, PL-01
Tallahassee, FL 32399-1050
Attention: Greg Slemp, Senior Assistant Attorney General
Telephone: (850) 414-3300
Facsimile:
Email address: greg.slemp@myfloridalegal.com

And a copy to:
Karen Roberts
Executive Vice President and General Counsel
Walmart, Inc.
702 S.W. 8th Street
Bentonville, AR 72716
Karen.Roberts@walmartlegal.com

And a copy to:
David W. Ogden
Charles C. Speth
Wilmer Cutler Pickering Hale and Dorr LLP
1875 Pennsylvania Avenue, NW
Washington, DC 20006
David.Ogden@wilmerhale.com
Charles.Speth@wilmerhale.com

If to the Escrow Agent:
Wilmington Trust, National Association
Corporate Client Services
1100 N. Market Street
Wilmington, DE 19890
Attn: Beth Andrews
Telephone: (302) 636-6680
Email address: bandrews@wilmingtontrust.com

4.4. Governing Law. This Escrow Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to any laws relating to choice of laws (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

4.5. Venue. The State and the Escrow Agent hereby consent to the exclusive personal jurisdiction of the courts located in **New Castle County in the State of Delaware** in the event of a dispute arising out of or under this Escrow Agreement. The State and the Escrow Agent hereby irrevocably waives any objection to the laying of the venue of any suit, action or proceeding and irrevocably submits to the exclusive jurisdiction of such court in such suit, action or proceeding.

4.6. Entire Agreement. This Escrow Agreement and the exhibits hereto set forth the entire agreement and understanding of the parties related to the Escrow Property and supersedes all prior agreements and understandings, oral or written. If a court of competent jurisdiction declares a provision invalid, it will be ineffective only to the extent of the invalidity, so that the remainder of the provision and Escrow Agreement will continue in full force and effect. In the event of any direct conflict of the terms of this Escrow Agreement with the terms of the Agreement, as with respect to the rights of the State and the Local Governments, the terms of the Agreement shall control and prevail; provided, in no event shall the Escrow Agent be bound by the terms of the Agreement. This Escrow Agreement is not intended to confer upon any person other than the parties hereto any rights or remedies.

4.7. Amendment. This Escrow Agreement may be amended, modified, supplemented, superseded, rescinded, or canceled only by a written instrument executed by the State and the Escrow Agent; provided that Exhibit B, as applicable, may be amended at any time in accordance with Section 1.4.

4.8. Waivers. The failure of any party to this Escrow Agreement at any time or times to require performance of any provision under this Escrow Agreement shall in no manner affect the right at a later time to enforce the same performance. A waiver by any party to this Escrow Agreement of any such condition or breach of any term, covenant, representation, or warranty contained in this Escrow Agreement, in any one or more instances, shall neither be construed as a further or continuing waiver of any such condition or breach nor a waiver of any other condition or breach of any other term, covenant, representation, or warranty contained in this Escrow Agreement.

4.9. Interpretation. Section headings of this Escrow Agreement have been inserted for convenience of reference only and shall in no way restrict or otherwise modify any of the terms or provisions of this Escrow Agreement. Unless otherwise indicated by the context, the singular shall include the plural and the plural shall include the singular. Any references to an Exhibit is a reference to an Exhibit of this Escrow Agreement.

4.10. Electronic Signatures; Facsimile Signatures; Counterparts. This Escrow Agreement may be executed in one or more counterparts. Such execution of counterparts may occur by manual signature, electronic signature, facsimile signature, manual signature transmitted by means of facsimile transmission or manual signature contained in an imaged document attached to an email transmission, and any such execution that is not by manual signature shall have the same legal effect, validity and enforceability as a manual signature. Each such counterpart executed in accordance with the foregoing shall be deemed an original, with all such counterparts together constituting one and the same instrument. The exchange of executed copies of this Escrow Agreement or of executed signature pages to this Escrow Agreement by electronic transmission, facsimile transmission or as an imaged document attached to an email transmission shall constitute effective execution and delivery hereof. Any copy of this Escrow Agreement

which is fully executed and transmitted in accordance with the terms hereof may be used for all purposes in lieu of a manually executed copy of this Escrow Agreement and shall have the same legal effect, validity and enforceability as if executed by manual signature.

4.11. Waiver of Jury Trial. **THE STATE HERETO EXPRESSLY WAIVES THE RIGHT TO TRIAL BY JURY IN RESOLVING ANY CLAIM OR COUNTERCLAIM RELATING TO OR ARISING OUT OF THIS ESCROW AGREEMENT.**

[The remainder of this page left intentionally blank.]

IN WITNESS WHEREOF, this Escrow Agreement has been duly executed as of the date first written above.

STATE

By: _____
Name:
Title:
Date:

WILMINGTON TRUST, NATIONAL ASSOCIATION, as Escrow Agent

By: _____
Name:
Title:
Date:

WILMINGTON TRUST

EXHIBIT A-1
Form of Written Direction

VIA [DELIVERY METHOD]:

[date]

Wilmington Trust, National Association
[Corporate Client Services
1100 N. Market Street
Wilmington, DE 19890]
Attention: [name]

Re: Escrow Account No.: [##], [escrow account name]

Ladies and Gentlemen:

Reference is made to the Escrow Agreement, dated as of _____, 20__ entered into by and among STATE OF FLORIDA, OFFICE OF ATTORNEY GENERAL- DEPARTMENT OF LEGAL AFFAIRS ("**State**"), and WILMINGTON TRUST, NATIONAL ASSOCIATION, a national banking association, as escrow agent (the "**Escrow Agent**"). Capitalized terms defined in the Escrow Agreement shall have the same meanings when used herein. This letter is a Written Direction referred to in Section 1.3(a) of the Escrow Agreement.

The State of Florida, Office of Attorney General- Department of Legal A hereby instructs the Escrow Agent to release the funds in the Escrow Account in the amounts, and to the account(s), as follows:

Amount:	
Beneficiary Bank Name:	
Beneficiary Bank Address Line 1:	
Beneficiary Bank Address Line 2:	
Beneficiary Bank Address Line 3:	
ABA#:	
SWIFT#:	
Beneficiary Account Title:	
Beneficiary Account No./IBAN:	
Beneficiary Address Line 1:	
Beneficiary Address	

Line 2:	
Beneficiary Address Line 3:	
Additional Information:	

STATE OF FLORIDA
OFFICE OF ATTORNEY GENERAL
DEPARTMENT OF LEGAL AFFAIRS

By:_____
Name:
Title:
Date:

WILMINGTON TRUST

EXHIBIT A-2
Form of Written Direction

VIA [DELIVERY METHOD]:

[date]

Wilmington Trust, National Association
[Corporate Client Services
1100 N. Market Street
Wilmington, DE 19890]
Attention: [name]

Re: Escrow Account No.: [##], [escrow account name]

Ladies and Gentlemen:

Reference is made to the Escrow Agreement, dated as of _____, 20__ entered into by and among STATE OF FLORIDA, OFFICE OF ATTORNEY GENERAL- DEPARTMENT OF LEGAL AFFAIRS ("**State**"), and WILMINGTON TRUST, NATIONAL ASSOCIATION, a national banking association, as escrow agent (the "**Escrow Agent**"). Capitalized terms defined in the Escrow Agreement shall have the same meanings when used herein. This letter is a Written Direction referred to in Section 1.3(a) of the Escrow Agreement.

The State of Florida, Office of Attorney General- Department of Legal Affairs hereby instructs the Escrow Agent to release the funds in the Escrow Account in the amounts, and to the account(s), according to the attached spreadsheet.

STATE OF FLORIDA
OFFICE OF ATTORNEY GENERAL
DEPARTMENT OF LEGAL AFFAIRS

By:_____
Name:
Title:
Date:

WILMINGTON TRUST

[SEE ATTACHED]

WILMINGTON TRUST

EXHIBIT B

CERTIFICATE AS TO AUTHORIZED SIGNATURES OF THE STATE

The State hereby designates each of the following persons as its Authorized Representative for purposes of this Escrow Agreement, and confirms that the title, contact information and specimen signature of each such person as set forth below is true and correct. Each such Authorized Representative is authorized to initiate and approve transactions of all types for the Escrow Account established under this Escrow Agreement to which this Exhibit B is attached, on behalf of the State.

Name (print):	
Specimen Signature:	
Title:	
Telephone Number (required): *If more than one, list all*	Office: Cell: Home: Other:
E-mail (required): *If more than one, list all*	Email 1: Email 2:
Facsimile:	

Name (print):	
Specimen Signature:	
Title:	
Telephone Number (required): *If more than one, list all*	Office: Cell: Home: Other:
E-mail (required): *If more than one, list all*	Email 1: Email 2:
Facsimile:	

Name (print):	
Specimen Signature:	
Title:	
Telephone Number (required): *If more than one, list all*	Office: Cell: Home: Other:

E-mail (required): *If more than one, list all*	Email 1: Email 2:
Facsimile:	

COMPLETE BELOW TO UPDATE EXHIBIT B

If the State wishes to change the names or details of any of its Authorized Representatives, the State must complete, sign and send to Escrow Agent an updated copy of this Exhibit B-1 with such changes. Any updated Exhibit B shall be effective once signed by the State and Escrow Agent and shall entirely supersede and replace any prior Exhibit B attached to this Escrow Agreement or submitted to Escrow Agent.

STATE

By:_____
Name:
Title:
Date:

WILMINGTON TRUST, NATIONAL ASSOCIATION

By:_____
Name:
Title:
Date:

Internal Use Only:
□ Updated details of Authorized Representatives completed in full
□ Signed by a representative of the State per relevant board resolutions/certificate of incumbency on file (if relevant).
□ Call-back performed to the State to confirm authenticity of updated Exhibit B:

Person Called:_____ Date of Call: _____ Time of Call: ____am/pm

Reviewed by (name):_____Signature: _____Date: _____

WILMINGTON TRUST

EXHIBIT C

Fees of Escrow Agent

Acceptance Fee: **waived**

Initial Fees as they relate to Wilmington Trust, N.A. acting in the capacity of Escrow Agent – includes review of the Escrow Agreement; acceptance of the Escrow appointment; setting up of Escrow Account(s) and accounting records; and coordination of receipt of funds for deposit to the Escrow Account(s). **Acceptance Fee payable prior to, or within one business day after, the Escrow Agreement is executed by all parties.**

Escrow Agent Administration Fee: **$10,000.00**

For ordinary administrative services by Escrow Agent – includes daily routine account management; investment transactions; cash transaction processing (including wire and check processing); monitoring claim notices pursuant to the agreement; disbursement of funds in accordance with the agreement; and mailing of trust account statements to all applicable parties. This fee shall be payable annually**.**

Disbursement Fee:

Initial disbursement by wire:	$100/disbursement
Initial disbursement by check:	$75/disbursement
For each subsequent disbursement to an existing payee:	$40/disbursement

Wilmington Trust, N.A.'s fees are based on the following assumptions:

- Number of Escrow Accounts to be established: One (1)
- Estimated Term of Escrow Agreement: TBD
- Investment of Escrow Property in: TBD

Out-of-Pocket Expenses: **Billed At Cost**

Exhibit K

Alleged Harms

The following expert reports that were filed in connection with the case captioned *In re: National Prescription Opiate Litigation*, No. 1:17-md-2804 (N.D. Ohio) provide non-exclusive examples of Alleged Harms:

1. Expert report of G. Caleb Alexander, dated April 16, 2021.

2. Expert report of David Cutler, dated April 16, 2021; supplemental expert report of David Cutler, dated April 21, 2021; and second supplemental expert report of David Cutler, dated May 10, 2021.

3. Expert report of David Herzberg, dated April 16, 2021.

4. Expert report of Katherine M. Keyes, Ph.D., dated April 16, 2021; supplemental expert report of Katherine M. Keyes, Ph.D, dated June 2, 2021.

5. Expert report of Dr. Anna Lembke, dated April 16, 2021.

6. Expert report of Harvey Rosen, dated April 16, 2021.

7. Expert report of Nancy Young, dated April 16, 2021.

Exhibit L

Illustrative List of Released Entities

Walmart Inc. (f/k/a Wal-Mart Stores)
Wal-Mart
Wal-Mart Stores, Inc.
Wal-Mart Stores East
Wal-Mart Stores East, LP
Wal-Mart Stores East, Inc.
Wal-Mart Stores East, LLC f/k/a Wal-Mart Stores East Inc.
Wal-Mart Stores East d/b/a Wal-Mart Pharmacy Warehouse #45
Wal-Mart Stores East d/b/a Walmart Pharmacy Warehouse #46
Wal-Mart Stores East, LP d/b/a Wal-Mart Pharmacy Warehouse #45
Wal-Mart Stores East, LP d/b/a Walmart Pharmacy Warehouse #46
Wal-Mart Pharmacy
Wal-Mart Pharmacy Warehouse #45
Wal-Mart Pharmacy Warehouse #46
Wal-Mart Pharmacy 10-5296
Wal-Mart Pharmacy Wholesale
Wal-Mart Stores Texas, LLC
Wal-Mart Property Company
Wal-Mart Real Estate Business Trust
Wal-Mart.com USA, L.L.C.
Sam's West, Inc.
Sam's East, Inc.
Sam's Property Company
Sam's Real Estate Business Trust
Wal-Mart de Mexico, S.A.B. de C.V.
Wal-Mart Canada Corp.
Flipkart Private Limited
Flipkart Walmart Chile S.A.
Walmart Chile
Massmart Holdings Ltd.
Qomolangma Holdings Ltd.
WSE Investment LLC
WSE Management LLC

Legislation Details (With Text)

File #:	23-166	**Version:**	1	**Name:**	
Type:	Resolution			**Status:**	City Business
File created:	3/1/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	Council approval to apply for a Phase 1 - Design and Permitting grant through the Florida Inland Navigation District (FIND) for the design a new docking system and breakwater to replace and protect the day slips that were destroyed by Hurricanes Ian and Nicole located at the Cocoa Waterfront. Approve the Resolution. Authorize the City Manager to Execute the Grant Application. (Public Works Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	031423 - FIND Resolution.pdf 022723 - WAP 2023 Application Part 2.pdf Int Grant App - FIND Docking Breakwater SIGNED.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: March 1, 2023
Agenda Date: March 14, 2023
Prepared By: Frank Mirabito, Project Manager
Through: Bryant Smith III, P.E., CFM, Public Works Director/City Engineer
Requested Action:
Council approval to apply for a Phase 1 - Design and Permitting grant through the Florida Inland Navigation District (FIND) for the design a new docking system and breakwater to replace and protect the day slips that were destroyed by Hurricanes Ian and Nicole located at the Cocoa Waterfront. Approve the Resolution. Authorize the City Manager to Execute the Grant Application.

BACKGROUND:

The 2023 Florida Inland Navigation District (FIND) grant guidelines were released in January for intracoastal waterway municipalities to apply for funding to support waterway related projects within the District. Grant applications are due for submission on March 27, 2023. Projects scoring the minimum number of points become eligible for funding. Funding is typically released by October 1, 2023 once approved by FIND.

The FIND Grant provides up to 50% funding assistance for the projects. This Design and Permitting grant will provide the engineering and permitting necessary to construct a new docking system and breakwater to replace the destroyed day slips during the 2022 hurricanes. If awarded in October, the next step would be to request task orders using the City's Continuing Service Agreements for Civil

Engineering.

The approximate cost for this design effort is $168,000. Design should be complete by the end of September of 2025. Permitting may increase the duration of this phases depending on the complexity of the breakwater system.

STRATEGIC PLAN CONNECTION:

The Strategic Plan identified for this purpose is Infrastructure and Redevelopment. By improving the waterfront infrastructure, the Cocoa waterfront will see increased development, thus improving our economic base for the City.

BUDGETARY IMPACT:

No Fiscal Year 2023 funds are required at this time. If awarded, staff will return to Council to accept the FIND Agreement and the Cocoa CRA for appropriation of funds.

PREVIOUS ACTION:

On December 13, 2022 Council approved the demolition of the damaged day slips.

RECOMMENDED MOTION:

Council approval to apply for a Phase 1 - Design and Permitting grant through the Florida Inland Navigation District (FIND) for the design a new docking system and breakwater to replace and protect the day slips that were destroyed by Hurricanes Ian and Nicole located at the Cocoa Waterfront. Approve the Resolution. Authorize the City Manager to Execute the Grant Application.

powered by Legistar™

RESOLUTION NO. 2023-026

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AUTHORIZING AND SUPPORTING THE FILING OF A GRANT APPLICATION WITH THE FLORIDA INLAND NAVIGATION DISTRICT FOR PURPOSES OF ACQUIRING GRANT FUNDING TO ASSIST WITH THE DESIGN OF PUBLIC DOCKING SLIPS WITH RELATED BREAKWATER AT THE COCOA WATERFRONT FOR THE ENJOYMENT OF THE CITIZENRY OF THE CITY OF COCOA AND THE STATE OF FLORIDA; PROVIDING FOR REPEAL OF PRIOR IN CONSISTENT RESOLUTIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the project title is the *Phase 1 Design – Cocoa Waterfront – Public docking slips with breakwater***;** and

WHEREAS, the total estimated cost for the project is $168,000; and

WHEREAS, the project is generally described as a project to design public docking slips with related breakwater at the Cocoa Waterfront; and

WHEREAS, the City Council finds that this Resolution is in the best interests of the public health, safety and welfare of the citizens of Cocoa and the many visitors accessing the City's waterfront.

AND, Florida Inland Navigation District financial assistance is rquired for the program mentioned above,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, as follows:

SECTION 1. PROJECT. The project, as described above, is hereby authorized.

SECTION 2. FUNDING. The City Council hereby authorizes the City Manager to complete and file a Phase I design grant application with the Florida Inland Navigation District in the amount of 50% of the actual cost of the project on behalf of said City of Cocoa and that it certifies to the following:

1. That it will accept the terms and conditions set forth in FIND Rule 66B-2 F.A.C. and which will be a part of the Project Agreement for any assistance awarded under the attached proposal.

2. That it is in complete accord with the attached proposal and that it will carry out the Program in the manner described in the proposal and any plans and specifications attached thereto unless prior approval for any

change has been received from the District.

3. That it has the ability and intention to finance its share of the cost of the project and that the project will be operated and maintained at the expense of said City of Cocoa for public use.

4. That it will not discriminate against any person on the basis of race, color or national origin in the use of any property or facility acquired or developed pursuant to this proposal, and shall comply with the terms and intent of the Title VI of the Civil Rights Act of 1964, P.L. 88-352 (1964) and design and construct all facilities to comply fully with statutes relating to accessibility by persons with disabilities as well as other federal, state, and local laws, rules, and requirements.

5. That it will maintain adequate financial records on the proposed project to substantiate claims for reimbursement.

6. That it will make available to FIND if requested, a post-audit of expenses incurred on the project prior to, or in conjunction with, request for the final 10% of the funding agreed to by FIND.

SECTION 3. This Resolution shall take effect upon adoption.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the 14th day of March 2023.

_____
Michael C. Blake, Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk



WATERWAYS ASSISTANCE PROGRAM

APPLICATION PACKAGE

Part 2. Attachment E

Florida Inland Navigation District

FY 2023

WATERWAYS ASSISTANCE PROGRAM

APPLICATION PACKAGE

Part 2. Attachment E

The following attachment E-1 through E-8, in addition to the requirements of items 10 through 13 of the application checklist, constitute your formal application.

SUBMIT THE APPLICATION INFORMATION IN THE ORDER LISTED ON THE CHECKLIST.

Applications must be received by the District by 4:30 p.m. on March 27, 2023.

SUBMIT ENTIRE APPLICATION ONE OF TWO WAYS:



Electronic copy (pdf) via email:
JZimmerman@aicw.org

OR



Completed hardcopy via Mail:
FIND, 1314 Marcinski Rd.,
Jupiter, FL 33477

Application must be received by the deadline, no exceptions.

Attachment E - Applicant Tips Sheet

(Mistakes Common to the application process and how to avoid them)

SCHEDULING

The new application is available by January each year, and District funding is available AFTER October 1st of each year. Applicants should plan their schedule to avoid commonly missed deadlines: Application due – 27th of March; Property control/Technical sufficiency items – 15th of May, Permits – 18th of September. (Staff suggestion: Begin to secure property control and permits PRIOR to applying for funding.)

PROPERTY CONTROL VERIFICATION

Please have your attorney complete and sign the form in the application verifying applicant property control. In the case of leases or management agreements, please forward a copy to the District well in advance of the deadline to verify consistency with our program rules. (Staff suggestion: Resolve this requirement outside the application "window".)

PROJECT COSTS ELIGIBILITY

Please note the eligible project costs in Rule Section 66B-2.008, F.A.C. If you are not sure about an item's eligibility, ask! Note: Any ineligible cost, including in-house project management and administration, is also not eligible for an applicant's match. Make sure you have delineated your required minimum cost-share on the project cost estimate. (Staff suggestion: If you have questions about the eligibility of an item, work up a mock cost-sheet and send it to our office well before the deadline.)

COST-SHARE

Although the applicant must provide a minimum of 50% of the total project costs (25% for eligible public navigation dredging), there is no specific requirement to split each item. (Staff suggestion: You may want to organize project element in a certain manner for easier accounting.)

PRE-AGREEMENT EXPENSES

Rule 66B-2.005(3), F.A.C. requires any activity in the submitted project cost estimate occurring PRIOR to October 1st to be considered as pre-agreement expenses. The Board's past philosophy has been to fund only those projects that require District funding assistance to be completed. It is best to avoid pre-agreement expenses if possible. Note, that pre-agreement expenses must be limited to 50% or less of the total project costs, and they are eligible for only ½ of the original District funding. (Example: A project with a total cost of $200,000 is Board-approved for one-half construction PRIOR to October 1st. In this case, District funding will be limited as follows: Only 50% of the $100,000 project cost prior to October 1st is eligible as project expenses (i.e. $50,000). Then only ½ of the eligible project expenses ($50,000) are eligible for District funding assistance (i.e. $25,000).

SUBMITTED MATERIALS & JUNE PRESENTATION

The Board must review and evaluate every application and each year we receive about 90 applications for consideration. The final product for the Commissioner's review is two 8-1/2" x 11" spiral-bound notebooks containing the essential information for the application. NOTE: make sure your final submitted material is the same material you will be presenting to the Board at our June meeting. This will avoid confusion and strengthen your presentation. (Staff suggestion: Limit the submitted materials to the requested information, in the required format and make sure it is consistent with your June presentation. Do not submit additional material at the June presentation!)

ELECTRONIC SUBMISSIONS

Grant applications are being accepted by email or hardcopy. Grant applications may be submitted via email as a pdf attachment (permits attached separately). Make sure to label your pdf attachment with the applicant and project title. You will receive a confirmation email letting you know your application has been received. Email your completed application to JZimmerman@aicw.org Or you may send hardcopy applications to FIND, 1314 Marcinski Rd, Jupiter, EL 33477.

Applications must be received by the District by 4:30 p.m. on March 27, 2023.

ATTACHMENT E-1

APPLICATION CHECKLIST

WATERWAY ASSISTANCE PROGRAM FY 2023

Project Title:	Phase 1 Design – Cocoa Waterfront – Public Docking Slips with Breakwater
Applicant:	City of Cocoa

This checklist and the other items listed below in items 1 through 13 constitute your application. The required information shall be submitted in the order listed.

An electronic copy may be emailed to JZimmerman@aicw.org. Application must be received by the deadline, no exceptions.

All information will be printed on 8 ½"x11" paper to be included in agenda books bound by staff.

		YES	NO
1.	District Commissioner Review (prior to March 3rd) *(NOTE*: **For District Commissioner initials ONLY!)** **(District Commissioner must initial the yes line on this checklist for the application to be deemed complete)**	____	____
2.	Application Checklist – E-1 (Form No. 90-26, 2 pages) (Form must be signed and dated)	○	◉
3.	Applicant Info/Project Summary – E-2 (Form No. 90-22, 1 page)**(Form must be completed and signed)**	○	◉
4.	Project Information – E-3 (Form No. 90-22a, 1 page)	○	◉
5.	Application and Evaluation Worksheet – E-4(+) (Form No.91-25) (One proper sub-attachment included, 7 pages) Must answer questions 1-10. **No signatures required**	○	◉
6.	Project Cost Estimate – E-5 (Form No. 90-25, 1 page) **(Must be on District form**)	○	◉
7.	Project Timeline – E-6 (Form No. 96-10, 1 page)	○	◉
8.	Official Resolution Form – E-7 (Form No. 90-21, 2 pages) **(Resolution must be in District format and include items 1-6)**	○	◉

ATTACHMENT E-1 (Continued)

APPLICATION CHECKLIST

WATERWAY ASSISTANCE PROGRAM FY 2023

		YES	NO
9.	Attorney's Certification (Land Ownership) – E-8 **(Must be on or follow format of Form No. 94-26, Legal descriptions NOT accepted in lieu of form)**	◉	○
10.	County/City Location Map	◉	○
11.	Project Boundary Map	◉	○
12.	Clear & Detailed Site Development Plan Map	○	◉
13.	Copies of all Required Permits: ACOE, DEP, WMD (Required of development projects only)	○	◉

The undersigned, as applicant, acknowledges that Items 1 through 12 above constitutes a complete application and that this information is due in the District office no later than 4:30 PM, March 27, 2023 By May 15, 2023 my application must be deemed complete (except for permits) or it will be removed from any further consideration by the District. I also acknowledge that the information in Item 13 is due to the District no later than September 18, 2023. If the information in Item 13 is not submitted to the District office by September 18, 2023, I am aware that my application will be removed from any further funding consideration by the District.

LIAISON: Connor Williams TITLE: Grants Writer

3/14/23

**** SIGNATURE - PROJECT LIAISON **** DATE

FIND OFFICE USE ONLY

Date Received: _____

Local FIND Commissioner Review: _____

All Required Supporting Documents: _____

Applicant Eligibility: _____

Project Eligibility: _____ Available Score: _____

Compliance with Rule 66B-2 F.A.C.: _____

_____

Eligibility of Project Cost: _____

ATTACHMENT E-2

APPLICANT INFORMATION & PROJECT SUMMARY

WATERWAY ASSISTANCE PROGRAM FY 2023

APPLICANT INFORMATION			
Applicant: City of Cocoa			
Department: Cocoa Community Redevelopment Area			
Project Title: Phase 1 Design – Cocoa Waterfront – Public Docking Slips with Breakwater			
Project Director: Charlene Neuterman		**Title:**	Community Services Director
Project Liaison: *(if different from Director)*	Connor Williams	**Title:**	Grants Writer
Mailing Address:	65 Stone St.		
City: Cocoa		**Zip Code:**	32922
Email Address: cwilliams@cocoafl.gov		**Phone #:**	(321) 433-8684
Project Address:	300 Riveredge Blvd - Lee Wenner Park		

***** I hereby certify that the information provided in this application is true and accurate. *****

SIGNATURE: _____ DATE: _____

PROJECT NARRATIVE (Please summarize the project in space provided below in 2 paragraphs or less.)

Phase 1 Design

Design 14 Public Docking Slips destroyed by Hurricanes Ian and Nicole 2022.
Permit 14 Public Docking Slips Slips.
Design to include a breakwater and/or rip rap.
These day slips provide public docking access for day-boaters ranging in size from 20 to 33 feet in length.

ATTACHMENT E-3

PROJECT INFORMATION

WATERWAY ASSISTANCE PROGRAM FY 2023

Applicant: City of Cocoa	**Project Title:** Phase 1 Design – Cocoa Waterfront – Public Docking Slips with Breakwater	
Total Project Cost: $ 168000	**FIND Funding Requested: $** 84000	**% of Total Cost:** 50
Amount of Applicant's Matching Funds:	$84,000	
Source of Applicant's Matching Funds:	Cocoa CRA TIF funds	

1. Ownership of Project Site (check one): Own: ◉ Leased: ○ Other: ○

2. If leased or other, please describe lease or terms and conditions:

3. Has the District previously provided assistance funding to this project or site? Yes ◉ No: ☐ ○

4. If yes, please list:

BV-CO-17-134
BV-CO-17-139E

5. What is the current level of public access in terms of the number of boat ramps, boat slips and trailer parking spaces, linear feet of boardwalk (etc.)? (as applicable):

4 Boat Ramps, 70 vehicles spaces, 55 boat with trailer spaces; all spaces are paved.
250' T-dock, with related 1,850 linear feet of waterside walkway.

6. How many additional ramps, slips, parking spaces or other access features will be added by this project?

14 public boat slips for boating day-trippers.

7. Are fees charged for the use of this project? No ◉ Yes ○ **

****If yes, please attach additional documentation of fees and how they compare with fees from similar public & private facilities in the area.**

Please list all Environmental Resource Permits required for this project:

AGENCY	Yes / No / N/A	Date Applied For	Date Received
WMD	Yes	TBD	
DEP			
ACOE	Yes	TBD	

ATTACHMENT E-4

EVALUATION WORKSHEET

WATERWAY ASSISTANCE PROGRAM FY 2023

DIRECTIONS:
All applicants will complete questions 1 through 6, and then based on the type of project, complete one and only one subsection (E-4A, B, C, D or E) for questions 7-10.

*****Please keep your answers brief and do not change the pagination of Attachment E-4*****

All other sub-attachments that are not applicable to an applicant's project should not be included in the submitted application.

Project Title:	Phase 1 Design – Cocoa Waterfront – Public Docking Slips with Breakwater
Applicant:	City of Cocoa

---

1) PRIORITY LIST:

a) Denote the priority list category of this project from Attachment C in the application. (The application may only be of **one** type based upon the predominant cost of the project elements.)

7. Acquisition, dredging, shoreline stabilization and development of public boat docking and mooring facilities.

b) Explain how the project fits this priority category.

The previous, and future, publicly-accessible boating slips provide boaters with the opportunity to stop along the Intracoastal Waterway in Cocoa. The Public docking slips provide easy access to Cocoa Village, which features restaurants and other land-side facilities and amenities. The City of Cocoa regularly hosts events that accommodate the boating public, including events such as concerts at the Riverfront Park.

(For reviewer only)
Max. Available Score for application _____

Question 1. Range of Score (1 to____points)

---

2) WATERWAY RELATIONSHIP:

a) Explain how the project relates to the ICW and the mission of the Navigation District.

Lee Wenner Park is located directly on the ICW and provides both boaters and non-boaters access to the waterway. Reconstructing the public docing slips will attract boaters looking for a local and safe play to tie up.

b) What public access or navigational benefit to the ICW or adjoining waterway will result from this project?

14 public docking slips slips will be provided to the boating public.

(For reviewer only)
(1-6 points)

3) PUBLIC USAGE & BENEFITS:

a) Describe how the project increases/improves boater/public access. Estimate the amount of total public use.

This project will provide 14 public docking slips in the Cocoa waterfront. The previous slips saw peak use weekdays during lunch and dinner, and all day on the weekends, and the new slips will see the same usage.

b) Discuss the regional and local public benefits provided by the project. Can residents from other counties of the District reasonably access and use the project? Explain.

The Cocoa Waterfront is easily accessible for free by the general public in other counties up and down the ICW.

c) Has the local Sponsor implemented or plans to implement any boating access, speed zone, commercial access or other restrictive use of this site?

No.

(For reviewer only)
(1-8 points)

4) TIMELINESS:

a) **Describe current status of the project and present a reasonable and effective timeline for the completion of the project consistent with Attachment E-6.**

We currently anticipate a three year process for design and permitting.

b) **Briefly explain any unique aspects of this project that could influence the timeline.**

Permitting and a wave attenuation plan.

(For reviewer only)
(1-3 points)

5) COSTS & EFFICIENCY:

a) **List funding sources and the status and amount of the corresponding funding that will be utilized to complete this project including any cash match or matching grant funds.**

The City of Cocoa CRA will be providing the full amount of the City's 50% matching portion - $84,000

b) Identify and describe any project costs that may be increased because of the materials utilized or specific site conditions.

N/A

c) Are there any fees associated with the use of this facility? If so, please list or attach fee sheet.

No. The site is free and open to the public.

d) If there are any fees, please explain where these fees go and what they are used for. In addition, please provide a listing of the fees charged by similar facilities, public and private, in the project area.

N/A

(For reviewer only)
(1-6 points)

6) PROJECT VIABILITY:

a) Why is the project necessary and what need will it fill? Why are existing facilities insufficient to meet demand?

The previously-built docking slips were destroyed by Hurricanes Ian and Nicole. The 14 new and revised docking slips, once constructed, will fulfill the Public's need for increased boating access to the Cocoa Waterfront and Cocoa Village as called for in the City's Waterfront Master Plan.

b) Clearly demonstrate how the project will continue to be maintained and funded after funding is completed.

The City of Cocoa will use general fund dollars on an annual basis to maintain the facilities once constructed.

c) Is this project referenced or incorporated in an existing maritime management, public assess or comp plan?

Yes. The City has a Waterfront Master Plan that includes docking slips.

(For reviewer only)
(1-7 points)

SUB-TOTAL _____

ATTACHMENT E-4A
EVALUATION WORKSHEET
DEVELOPMENT & CONSTRUCTION PROJECTS

WATERWAY ASSISTANCE PROGRAM FY 2023

THIS ATTACHMENT IS TO BE COMPLETED IF YOUR PROJECT IS A DEVELOPMENT OR CONSTRUCTION PROJECT BUT **IS NOT** AN INLET MANAGEMENT OR BEACH RENOURISHMENT PROJECT.

---

7) PERMITTING:

a) Have all required environmental permits been applied for? (USACE, DEP and WMD) If permits are NOT required, explain why not.

No. All relevant permits will be applied for as part of this Phase 1 request.

b) If the project is a Phase I project, please provide a general cost estimate for the future Phase II work.

We currently anticipate 14 docking slips and the related breakwater/rip rap at $1.5 million.

c) Detail any significant impediments that may have been identified that would potentially delay the timely issuance of the required permits.

N/A

(For reviewer only)
(1-4 points)

---

8) PROJECT DESIGN:

a) Has the design work been completed?
If this is a Phase I project, has a preliminary design been developed?

A preliminary design has not been developed.

b) Are there unique beneficial aspects to the proposed design that enhance public usage or access, minimize environmental impacts, improve water quality or reduce costs?

There is a potential to incorporate a living breakwater. ADA standards will be incorporated.

(For reviewer only)
(1-2 points)

9) CONSTRUCTION TECHNIQUES:

a) Briefly explain the construction techniques and materials to be utilized for this project. Identify any unique construction materials that may significantly alter the project costs. If a Phase 1, elaborate on potential techniques.

N/A., as this is a Phase 1 design. Potential techniques will be based on Phase 1 engineering needs.

b) What is the design life of the proposed materials compared to other available materials?

Phase 1 design usually incorporates a minimum of 25 years for in-water facilities. We make every effort to reach a 50 year lifespan.

(For reviewer only)
(1-3 points)

10) ENVIRONMENTAL COMPONENTS:

a) How has the facility where the project is located demonstrated commitment to environmental compliance, sustainability, and stewardship?

The City has a selection of CSS signs educating the public at the boat ramps. We also have a fishing string collection tube. These signs also have links to other agencies and their respective missions.

b) What considerations, if any, have been made for sea level rise impacts in the design and life span of this project?

Sea level rise considerations resulted in raising our boat ramps by six inches. These considerations will factor into the docking slips as well.

(For reviewer only)
(1-3 points)

RATING POINT TOTAL _____

Note:
The total maximum score possible is dependent upon the project priority category but cannot exceed 50 points unless the project qualifies as an emergency-related project. The minimum score possible is 10 points. A score of 35 points or more is required to be considered for funding.

ATTACHMENT E-4B

EVALUATION WORKSHEET

ENVIRONMENTAL EDUCATION PROJECTS

WATERWAY ASSISTANCE PROGRAM FY 2023

THIS ATTACHMENT IS TO BE COMPLETED IF YOUR PROJECT IS AN ENVIRONMENTAL EDUCATION PROJECT

---

7) THOROUGHNESS:

a) Who is the primary target audience or user group for the project and how were they identified?

N/A

b) How have the needs of the target audience been evaluated and met?

N/A

c) How many people will the program serve on an annual basis? What will be the measurable results?

N/A

(For reviewer only)
(1-5 points)

---

8) DELIVERABLES:

a) **Describe the materials and project deliverables to be produced by this project.**

N/A

b) **Is there a clear and effective plan of dissemination of the materials produced through the project? Please describe.**

N/A

(For reviewer only)
(1-2 points)

---

9) EXPERIENCE & QUALIFICATIONS:

a) **Please briefly describe the qualifications of the program administrator(s), including prior experience, and areas of expertise.**

N/A

b) **What previous projects of this nature have been completed by the program manager?**

N/A

(For reviewer only)
(1-2 points)

10) PROJECT GOALS:

a) What are the long-term goals of this project as it relates to the ICW?

N/A

b) What is the expected duration/frequency of this program?

N/A

(For reviewer only)
(1-3 points)

RATING POINT TOTAL _____

Note:
The total maximum score possible is dependent upon the project priority category but cannot exceed 50 points unless the project qualifies as an emergency-related project. The minimum score possible is 10 points. A score of 35 points or more is required to be considered for funding.

ATTACHMENT E-4C

EVALUATION WORKSHEET

LAW ENFORCEMENT & BOATING SAFETY PROJECTS

WATERWAY ASSISTANCE PROGRAM FY 2023

THIS ATTACHMENT IS TO BE COMPLETED IF YOUR PROJECT IS A LAW ENFORCEMENT OR BOATING SAFETY PROJECT

---

7) VIABILITY:

c) Describe how the project will address particular public health, safety, or welfare issues of the Navigation District's Waterways.

N/A

d) How does the project provide significant benefits or enhancements to the District's Waterways?

N/A

(For reviewer only)
(1-3 points)

---

8) EXPERIENCE & QUALIFICATIONS:

a) List the personnel tasked with the implementation of this project, their qualifications, previous training and experience.

N/A

b) Have the personnel participated in or received state marine law enforcement training?

N/A

(For reviewer only)
(1-2 points)

---

9) DELIVERABLES:

a) Describe the anticipated, long-term measurable results of implementing this project.

N/A

b) What is the range or area of coverage for this project? Please provide a map of the coverage area.

N/A

c) Does the project fulfill a particular community need?

N/A

For reviewer only)
(1-4 points)

---

10) EDUCATION:

a) What are the educational benefits (if any) of this proposed project?

N/A

b) How does the project or program provide effective public boating education or expand boater safety?

N/A

(For reviewer only)
(1 -3 points)

RATING POINT TOTAL _____

Note:
The total maximum score possible is dependent upon the project priority category but cannot exceed 50 points unless the project qualifies as an emergency-related project. The minimum score possible is 10 points. A score of 35 points or more is required to be considered for funding.

ATTACHMENT E-4D

EVALUATION WORKSHEET

INLET MANAGEMENT & PUBLIC NAVIGATION PROJECTS

WATERWAY ASSISTANCE PROGRAM FY 2023

THIS ATTACHMENT IS TO BE COMPLETED IF YOUR PROJECT IS AN INLET MANAGEMENT OR PUBLIC NAVIGATION PROJECT

---

7) WATERWAY RELATIONSHIP:

a) How does the project directly benefit the Atlantic Intracoastal Waterway (AICW)?

N/A

b) Identify any long-term sedimentation problems and briefly discuss any methods or activities that will address these issues.

N/A

c) Will the project inhibit sediment inflow into, or reduce the dredging frequency of the AICW?

N/A

(For reviewer only)
(1-5 points)

---

8) PUBLIC ACCESS:

a) **Will the project enhance public access to or from the waterways? Describe in brief detail.**

N/A

b) **List the upstream publicly accessible facilities with improved access as a result of this project.**

N/A

(For reviewer only)
(1 -3 points)

9) BENEFICIAL PROJECT ELEMENTS:

a) **Are there additional economic benefits to be realized by implementing this project?**

N/A

b) **Briefly spell out any water quality, environmental or habitat benefits to be realized by this project.**

N/A

(For reviewer only)
(1 -2 points)

10) PROJECT MAINTENANCE:

a) When was this area last dredged? What is the expected frequency of future dredging?

N/A

b) Explain the funding mechanism for the long-term maintenance of the project.

N/A

c) Describe the long-range dredge material management plans.

N/A

(For reviewer only)
(1 -2 points)

RATING POINT TOTAL _____

Note:
The total maximum score possible is dependent upon the project priority category but cannot exceed 50 points unless the project qualifies as an emergency-related project. The minimum score possible is 10 points. A score of 35 points or more is required to be considered for funding.

ATTACHMENT E-4E

EVALUATION WORKSHEET

BEACH RENOURISHMENT PROJECTS

WATERWAY ASSISTANCE PROGRAM FY 2023

THIS ATTACHMENT IS TO BE COMPLETED IF YOUR PROJECT IS A BEACH RENOURISHMENT PROJECT

---

7) WATERWAY RELATIONSHIP:

a) Describe how the District and other navigation interests will benefit from the implementation of this project.

N/A

(For reviewer only)
(1 -4 points)

---

8) VIABILITY:

a) **Is the project site defined as critically eroded area by a statewide beach management plan?**

N/A

b) **Cite the quantifiable rate of erosion in this area.**

N/A

c) **Is the project an important component of an overall beach management effort?**

N/A

(For reviewer only)
(1 -4 points)

---

9) PUBLIC BENEFITS:

a) **Are there quantifiable public benefits demonstrated by the project?**

N/A

b) **Is there adequate public access to the project area? Please describe location and amount.**

N/A

(For reviewer only)
(1-2 points)

---

10) PROJECT FUNDING:

a) Describe any assistance funding from other sources.

N/A

b) Clarify the availability of long-term funding for this project.

N/A

(For reviewer only)
(1-2 points)

RATING POINT TOTAL: _____

Note:
The total maximum score possible is dependent upon the project priority category but cannot exceed 50 points unless the project qualifies as an emergency-related project. The minimum score possible is 10 points. A score of 35 points or more is required to be considered for funding.

ATTACHMENT E-4F

EVALUATION WORKSHEET

EMERGENCY RE-CONSTRUCTION

WATERWAY ASSISTANCE PROGRAM FY 2023

THIS ATTACHMENT IS TO BE COMPLETED ONLY IF YOUR PROJECT IS A WATERWAY PROJECT THAT WAS DAMAGED BY A NATURAL DISASTER AS DECLARED BY A STATE OF EMERGENCY UNDER CHAPTER 252, FLORIDA STATUTES.

---

11. (EXTRA) STORM DAMAGE EVALUATION:

a) List the State of Emergency declaration order or proclamation & the name and date of the storm/event.

N/A

b) Has this site/project previously received funding from FIND

N/A

c) Detail the other funding mechanisms and financial assistance that will be applied to defray the reconstruction costs or damage repair.

N/A

d) What is the current status of your FEMA paperwork for the project?

N/A

(For reviewer only)
(0-3 points)

ATTACHMENT E-5

PROJECT COST ESTIMATE

WATERWAY ASSISTANCE PROGRAM FY 2023

(See Rule Section 66B-2.005 & 2.008 for eligibility and funding ratios)

Project Title:	Phase 1 Design – Cocoa Waterfront – Public Docking Slips with Breakwater
Applicant:	City of Cocoa

Project Elements *(Please list the MAJOR project elements and provide general costs for each one. For Phase I Projects, please list the major elements and products expected)*	**Total Estimated Cost**	**Applicant's Cost** (To the nearest $50)	**FIND Cost** (To the nearest $50)
Ph 1 Design and Permits for 14 Docking Slips	$168,000	$84,000	$84,000

****TOTALS =**	**$ 168,000**	**$ 84,000**	**$ 84,000**

ATTACHMENT E-6

PROJECT TIMELINE

WATERWAY ASSISTANCE PROGRAM FY 2023

Project Title:	Phase 1 Design – Cocoa Waterfront – Public Docking Slips with Breakwater
Applicant:	City of Cocoa

The applicant is to present a detailed timeline on the accomplishment of the components of the proposed project including, as applicable, completion dates for: permitting, design, bidding, applicant approvals, initiation of construction and completion of construction.

NOTE: All funded activities must begin AFTER October 1st
(or be consistent with Rule 66B-2.005(3) - Pre-agreement expenses)

Date	Component
10/1/23	Task Order for Design and Permitting will requested and evaluated
11/14/23	Task Order will be awarded by Council
12/1/23	Purchase Order for task order services will be issued.
12/1/23	NTP to Design Firm
9/1/25	City of Cocoa to request an extension if necessary.
11/30/26	Design and Permitting should be complete

ATTACHMENT E-7

RESOLUTION FOR ASSISTANCE 2023

UNDER THE FLORIDA INLAND NAVIGATION DISTRICT
WATERWAYS ASSISTANCE PROGRAM

WHEREAS, THE City of Cocoa is interested in carrying out the
(Name of Agency)
following described project for the enjoyment of the citizenry of Cocoa and the State of Florida:

Project Title Phase 1 Design – Cocoa Waterfront – Public Docking Slips with Breakwater

Total Estimated Cost $ 168,000

Brief Description of Project:

Design and permit reconstruction of 14 public docking slips.

AND, Florida Inland Navigation District financial assistance is required for the program mentioned above,

NOW THEREFORE, be it resolved by the City of Cocoa
(Name of Agency)
that the project described above be authorized,

AND, be it further resolved that said City of Cocoa
(Name of Agency)

make application to the Florida Inland Navigation District in the amount of 50 % of the actual cost of the project in behalf of said City of Cocoa
(Name of Agency)

AND, be it further resolved by the City of Cocoa
(Name of Agency)
that it certifies to the following:

1. That it will accept the terms and conditions set forth in FIND Rule 66B-2 F.A.C. and which will be a part of the Project Agreement for any assistance awarded under the attached proposal.

2. That it is in complete accord with the attached proposal and that it will carry out the Program in the manner described in the proposal and any plans and specifications attached thereto unless prior approval for any change has been received from the District.

3. That it has the ability and intention to finance its share of the cost of the project and that the project will be operated and maintained at the expense of said City of Cocoa for public use.

(Name of Agency)

4. That it will not discriminate against any person on the basis of race, color or national origin in the use of any property or facility acquired or developed pursuant to this proposal, and shall comply with the terms and intent of the Title VI of the Civil Rights Act of 1964, P. L. 88-352 (1964) and design and construct all facilities to comply fully with statutes relating to accessibility by persons with disabilities as well as other federal, state and local laws, rules and requirements.

5. That it will maintain adequate financial records on the proposed project to substantiate claims for reimbursement.

6. That it will make available to FIND if requested, a post-audit of expenses incurred on the project prior to, or in conjunction with, request for the final 10% of the funding agreed to by FIND.

This is to certify that the foregoing is a true and correct copy of a resolution duly and legally adopted by the _____ at a legal meeting
(agency governing board)
held on this _____ day of _____ 20____.

_____	_____
Attest	Signature
_____	_____
Title	Title

ATTACHMENT E-8

ATTORNEYS CERTIFICATION OF TITLE 2023
(See Rule 66B-2.006(4) & 2.008(2) FAC)

OFFICE OF THE (City or County) ATTORNEY
(ADDRESS)

(Date), 2023

To WHOME IT MAY CONCERN:

I, (Name), an the Attorney for the (City or County), Florida I hereby state that I have examined a copy of a (deed, lease, management agreement, etc.) from _____ to the (City or County) conveying _____(Type of interest, i.e.. Fee simple, easement, 30-year lease, etc.) in the following described property:

(Brief Legal Description of Property)

I have also examined a document showing that this property is listed on the tax rolls as belonging to the (City or County). Finally, I have also examined such documents and records as necessary for this certification.

This property is what is now called "(Name of Property as Referenced in the WAP Application)".

I Certify that the (City or County) does in fact (Own, Lease, etc.) this property for _____ years.

Sincerely,

(Name)
Attorney, (City or County)

INTERNAL GRANT APPLICATION FORM

Completed and Signed Copy of this Form **Must Be Attached** to all Grant Agenda Items

DEPARTMENT: Police Department	**DIVISION:** Support Services
POINT OF CONTACT: Joanna Tabor	**PROJECT MANAGER:** Patrick Dovale
NAME OF GRANT: FY 2023 Victim of Crimes Act (VOCA) Grant	
Assistance Listing#/CFSA#: 16.575	**FUNDING AGENCY:** DOJ
AMOUNT REQUESTED: $ 118,921.00	**GRANT DUE DATE:** 03/24/2023

PROJECT DESCRIPTION:

The two Victim Advocate positions provide services to victims of crime in the City of Cocoa Police Department's response area. The Advocates respond to emotional and physical needs of crime victims, assist in stabilizing their lives after victimization, assist in navigating the criminal justice system, and assist in obtaining all services needed to regain a sense of normalcy for the victim.
This year features a pilot program of a "condensed application," which utilizes prior-year agreements to fast-track and guarantee an award. As such, we are guaranteed only $118,921.The grant will fund most of the salaries of two Victim Advocate Personnel, and can no longer fund the entire salaries, supplies, training, and operational costs as it had in the past.

MATCH REQUIRED: No **(IF YES, HOW MUCH :) $**	**TARGET DATE TO COUNCIL:**
REIMBURSEMENT GRANT: No	**REIMBURSEMENT SCHEDULE:** Monthly

WHAT ARE THE REPORTING REQUIREMENTS?

1. Monthly Progress Reporting
2. Monthly Financial Status Reporting / Reimbursement Requests
3. Quarterly Progress Reporting (Statistics of population served)

FUTURE REQUIREMENTS TO CONSIDER:

One-year performance period.

Future year awards are anticipated to remain static at $118,921, as they have for the prior two awards, but may be reduced due to fewer funds being passed through to the Florida Office of the Attorney General this year.

_____ Department Director

_____ Grants Administrator

_____ Deputy Finance Director

_____ Finance Director

_____ City Manager

Legislation Details (With Text)

File #:	23-168	**Version:**	1	**Name:**	
Type:	Report			**Status:**	City Business
File created:	3/2/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	Staff recommends approval to remove an oak tree at 2514 Suwannee Drive and provide a replacement oak tree at Bracco Stormwater Park and to remove an oak tree at 307 Blake Avenue and provide a replacement magnolia tree at Bracco Stormwater Park. (Public Works Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	2514 Suwannee Dr (1).jpg 2514 Suwannee Dr (2).jpg 307 Blake Avenue (1).jpg 307 Blake Avenue (2).jpg 100722 - Josh DeCarlo - ISA Certification.pdf 010323 - 2514 Suwanee Dr - Tree Risk Assessment.pdf 030723 - 307 Blake Ave - Tree Risk Assessment.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: March 2, 2023
Agenda Date: March 14, 2023
Prepared By: Frank Mirabito, Project Manager
Through: Bryant Smith III, P.E., CFM - Public Works Director / City Engineer
Requested Action:
Staff recommends approval to remove an oak tree at 2514 Suwannee Drive and provide a replacement oak tree at Bracco Stormwater Park and to remove an oak tree at 307 Blake Avenue and provide a replacement magnolia tree at Bracco Stormwater Park.

BACKGROUND:

City of Cocoa Public Works is requesting the removal and replacement of two oak trees.

The first tree is located within the right of way at 2514 Suwannee Drive. This oak tree is a known hazard as described in the attached (International Society of Arboriculture) ISA Tree Risk Assessment Report. A replacement oak tree is proposed to be planted at Bracco Park. The ISA Tree Risk Assessment Report that identified this tree as hazardous and needing removal was completed by an ISA Certified Arborist, as required by the City Code of Ordinances. The Planning and Zoning Board denied this tree for removal and suggested an annual assessment by a licensed certified arborist. Staff believes the recommendation provided to remove the tree, which was provided by a

licensed certified arborist, should be followed.

The second oak tree is located near the southwest corner of the Harry T. Moore Center at 307 Blake Avenue. This tree is encroaching on the building causing early damage to the building and its utilities. The sidewalk is also being compromised by this tree. Public Works proposed a replacement oak tree to be planted at Bracco Park. The Planning and Zoning Board approved this recommendation for removal and recommended a Magnolia Tree be planted at Bracco Pond as a replacement. Staff agrees with this recommendation.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

On March 1, 2023, The Planning and Zoning Board made the following recommendations to Cocoa City Council:
1) 2514 Suwannee - Denied for removal. Referred for annual assessment by a licensed certified arborist.
2) 307 Blake Avenue - Approved for removal. Plant a magnolia at Bracco Pond as a replacement tree.

RECOMMENDED MOTION:

Staff recommends approval to remove an oak tree at 2514 Suwannee Drive and provide a replacement oak tree at Bracco Stormwater Park and to remove an oak tree at 307 Blake Avenue and provide a replacement magnolia tree at Bracco Stormwater Park.











The International Society of Arboriculture

Hereby Announces That

Joshua Decarlo

Has Earned the Credential

ISA Certified Arborist®

By successfully meeting ISA Certified Arborist certification requirements through demonstrated attainment of relevant competencies as supported by the ISA Credentialing Council

Caitlyn Pollihan
CEO & Executive Director

07 October 2022	31 December 2025	FL-9913A
Issue Date	Expiration Date	Certification Number

ANAB
ANSI National Accreditation Board
ACCREDITED
ISO/IEC 17024
PERSONNEL CERTIFICATION BODY
#0847 ISA Certified Arborist®

ISA Basic Tree Risk Assessment Form

Client City of Cocoa Date 1-3-2023 Time 1 PM
Address/Tree location 2514 Swanee dr Tree no. _____ Sheet ____ of ____
Tree species Laurel Oak dbh 26in Height 25-30 Ft Crown spread dia. 43Ft
Assessor(s) Josh DeCarlo Tools used Pick & Rubber mallet **Time frame** _____

Target Assessment

Target number	Target description	Target protection	Target zone: Target within drip line	Target zone: Target within 1x Ht.	Target zone: Target within 1.5x Ht.	Occupancy rate (1–rare, 2–occasional, 3–frequent, 4–constant)	Practical to move target?	Restriction practical?
1	House	None		X		4	N	N
2	Roadway	None	X			3	N	N
3	Sidewalk	None	X			2	N	N
4								

Site Factors

History of failures N/A **Topography** Flat ☒ Slope ☐ _____% **Aspect** ____
Site changes None ☒ Grade change ☐ Site clearing ☐ Changed soil hydrology ☐ Root cuts ☐ Describe _____
Soil conditions Limited volume ☐ Saturated ☐ Shallow ☐ Compacted ☒ Pavement over roots ☒ 60 % Describe Roadway & Sidewalk
Prevailing wind direction _____ **Common weather** Strong winds ☐ Ice ☐ Snow ☐ Heavy rain ☐ Describe _____

Tree Health and Species Profile

Vigor Low ☒ Normal ☐ High ☐ **Foliage** None (seasonal) ☐ None (dead) ☐ Normal 60 % Chlorotic 30 % Necrotic 5 %
Pests/Biotic Yes - unknown **Abiotic** Water
Species failure profile Branches ☒ Trunk ☒ Roots ☐ Describe Decay / Bot Heartwood after 30-40 years

Load Factors

Wind exposure Protected ☐ Partial ☐ Full ☒ Wind funneling ☐ _____ **Relative crown size** Small ☒ Medium ☐ Large ☐
Crown density Sparse ☒ Normal ☐ Dense ☐ **Interior branches** Few ☒ Normal ☐ Dense ☐ **Vines/Mistletoe/Moss** ☒ _____
Recent or expected change in load factors _____

Tree Defects and Conditions Affecting the Likelihood of Failure

— Crown and Branches —

Unbalanced crown ☐ LCR _____%
Dead twigs/branches ☐ _____% overall Max. dia. _____
Broken/Hangers Number _____ Max. dia. _____
Over-extended branches ☐
Pruning history
Crown cleaned ☐ Thinned ☐ Raised ☒
Reduced ☐ Topped ☐ Lion-tailed ☐
Flush cuts ☒ Other _____

Cracks ☐ _____ Lightning damage ☐
Codominant ☒ _____ Included bark ☐
Weak attachments ☐ _____ Cavity/Nest hole ____% circ.
Previous branch failures ☐ _____ Similar branches present ☐
Dead/Missing bark ☐ Cankers/Galls/Burls ☐ Sapwood damage/decay ☐
Conks ☐ Heartwood decay ☒ Some
Response growth None

_____ Condition(s) of concern _____

Part Size _____ Fall Distance _____
Load on defect N/A ☐ Minor ☐ Moderate ☐ Significant ☐
Likelihood of failure Improbable ☐ Possible ☐ Probable ☐ Imminent ☐

Part Size _____ Fall Distance _____
Load on defect N/A ☒ Minor ☐ Moderate ☐ Significant ☐
Likelihood of failure Improbable ☐ Possible ☐ Probable ☒ Imminent ☐

— Trunk —

Dead/Missing bark ☐ Abnormal bark texture/color ☒
Codominant stems ☒ Included bark ☐ Cracks ☐
Sapwood damage/decay ☐ Cankers/Galls/Burls ☐ Sap ooze ☐
Lightning damage ☐ Heartwood decay ☒ Conks/Mushrooms ☐
Cavity/Nest hole 60 % circ. (Total) Depth 7.5 in Poor taper ☐
Lean ____° Corrected? _____
Response growth none
Condition(s) of concern large amounts of decay
Part Size _____ Fall Distance _____
Load on defect N/A ☐ Minor ☐ Moderate ☐ Significant ☒
Likelihood of failure Improbable ☐ Possible ☒ Probable ☐ Imminent ☐

— Roots and Root Collar —

Collar buried/Not visible ☐ Depth_____ Stem girdling ☐
Dead ☐ Decay ☐ Conks/Mushrooms ☐
Ooze ☐ Cavity ☐ ____% circ.
Cracks ☐ Cut/Damaged roots ☐ Distance from trunk _____
Root plate lifting ☐ Soil weakness ☐
Response growth _____
Condition(s) of concern _____
Part Size _____ Fall Distance _____
Load on defect N/A ☐ Minor ☐ Moderate ☐ Significant ☐
Likelihood of failure Improbable ☐ Possible ☐ Probable ☐ Imminent ☐

Risk Categorization

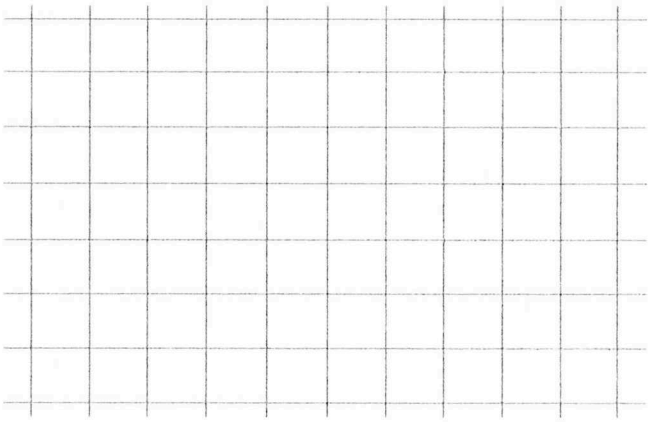
Target (Target number or description)	Tree part	Condition(s) of concern	Likelihood: Failure: Improbable	Failure: Possible	Failure: Probable	Failure: Imminent	Impact: Very low	Impact: Low	Impact: Medium	Impact: High	Failure & Impact (from Matrix 1): Unlikely	Somewhat	Likely	Very likely	Consequences: Negligible	Minor	Significant	Severe	Risk rating (from Matrix 2)
House	Top Branches					X				X			X				X		High
Broadway Sidewalk	Trunk & Branches				X					X			X				X		High

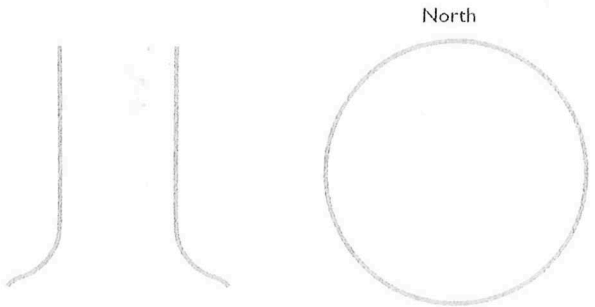
Matrix 1. Likelihood matrix.

Likelihood of Failure	Likelihood of Impact			
	Very low	Low	Medium	High
Imminent	Unlikely	Somewhat likely	Likely	Very likely
Probable	Unlikely	Unlikely	Somewhat likely	Likely
Possible	Unlikely	Unlikely	Unlikely	Somewhat likely
Improbable	Unlikely	Unlikely	Unlikely	Unlikely

Matrix 2. Risk rating matrix.

Likelihood of Failure & Impact	Consequences of Failure			
	Negligible	Minor	Significant	Severe
Very likely	Low	Moderate	High	Extreme
Likely	Low	Moderate	High	High
Somewhat likely	Low	Low	Moderate	Moderate
Unlikely	Low	Low	Low	Low





Notes, explanations, descriptions

Multiple Unsealed Wounds from previous cuts. Located around the same Circumference Line.

Mitigation options

1. Remove Tree — **Residual risk** None
2. Remove Limbs — **Residual risk** Reduced
3. _____ — **Residual risk** _____
4. _____ — **Residual risk** _____

Overall tree risk rating Low ☐ Moderate ☐ High ☒ Extreme ☐

Overall residual risk None ☐ Low ☐ Moderate ☐ High ☐ Extreme ☐ **Recommended inspection interval** Annually if not removed.

Data ☒Final ☐ Preliminary **Advanced assessment needed** ☒No ☐Yes-Type/Reason _____

Inspection limitations ☒None ☐Visibility ☐Access ☐Vines ☐Root collar buried Describe _____

ISA Basic Tree Risk Assessment Form

Client City of Cocoa Date 3/7/23 Time 10AM

Address/Tree location 307 Blake Ave / Moore Center Tree no. _____ Sheet ____ of ____

Tree species Live oak / Quercus Virginiana dbh _____ Height _____ Crown spread dia. _____

Assessor(s) Josh DeCarlo Tools used _____ Time frame _____

Target Assessment

Target number	Target description	Target protection	Target zone: Target within drip line	Target zone: Target within 1 x Ht.	Target zone: Target within 1.5 x Ht.	Occupancy rate (1 – rare, 2 – occasional, 3 – frequent, 4 – constant)	Practical to move target?	Restriction practical?
1	Building		X			2	N	
2	Concrete		X					
3	Underground Pipes		X					
4								

Site Factors

History of failures No/except for underground Pipes **Topography** Flat ☐ Slope ☐ _____% **Aspect** ____

Site changes None ☐ Grade change ☐ Site clearing ☐ Changed soil hydrology ☐ Root cuts ☒ Describe Pipe repair Root cuts

Soil conditions Limited volume ☐ Saturated ☐ Shallow ☐ Compacted ☐ Pavement over roots ☒ 80 % Describe Sidewalk

Prevailing wind direction N/A **Common weather** Strong winds ☐ Ice ☐ Snow ☐ Heavy rain ☐ Describe _____

Tree Health and Species Profile

Vigor Low ☐ Normal ☒ High ☐ **Foliage** None (seasonal) ☐ None (dead) ☐ Normal ____% Chlorotic ____% Necrotic ____%

Pests/Biotic _____ **Abiotic** _____

Species failure profile Branches ☐ Trunk ☐ Roots ☐ Describe _____

Load Factors

Wind exposure Protected ☐ Partial ☒ Full ☐ Wind funneling ☐ _____ **Relative crown size** Small ☒ Medium ☐ Large ☐

Crown density Sparse ☐ Normal ☒ Dense ☐ **Interior branches** Few ☐ Normal ☒ Dense ☐ **Vines/Mistletoe/Moss** ☒ _____

Recent or expected change in load factors _____

Tree Defects and Conditions Affecting the Likelihood of Failure

— Crown and Branches —

Unbalanced crown ☐ LCR ____%

Dead twigs/branches ☐ ____% overall Max. dia. ____

Broken/Hangers Number ____ Max. dia. ____

Over-extended branches ☐

Pruning history

Crown cleaned ☐ Thinned ☐ Raised ☐

Reduced ☐ Topped ☐ Lion-tailed ☐

Flush cuts ☐ Other _____

Cracks ☐ _____ Lightning damage ☐

Codominant ☐ _____ Included bark ☐

Weak attachments ☐ _____ Cavity/Nest hole ____% circ.

Previous branch failures ☐ _____ Similar branches present ☐

Dead/Missing bark ☐ Cankers/Galls/Burls ☐ Sapwood damage/decay ☐

Conks ☐ Heartwood decay ☐ _____

Response growth _____

_____ Condition(s) of concern _____

Part Size _____ Fall Distance _____

Load on defect N/A ☐ Minor ☐ Moderate ☐ Significant ☐

Likelihood of failure Improbable ☐ Possible ☐ Probable ☐ Imminent ☐

Part Size _____ Fall Distance _____

Load on defect N/A ☐ Minor ☐ Moderate ☐ Significant ☐

Likelihood of failure Improbable ☐ Possible ☐ Probable ☐ Imminent ☐

— Trunk —

Dead/Missing bark ☐ Abnormal bark texture/color ☐

Codominant stems ☐ Included bark ☐ Cracks ☐

Sapwood damage/decay ☐ Cankers/Galls/Burls ☐ Sap ooze ☐

Lightning damage ☐ Heartwood decay ☐ Conks/Mushrooms ☐

Cavity/Nest hole ____% circ. Depth _____ Poor taper ☒

Lean ____° Corrected? _____

Response growth _____

Condition(s) of concern Choked by concrete

Part Size _____ Fall Distance _____

Load on defect N/A ☒ Minor ☐ Moderate ☐ Significant ☐

Likelihood of failure Improbable ☐ Possible ☐ Probable ☐ Imminent ☐

— Roots and Root Collar —

Collar buried/Not visible ☐ Depth _____ Stem girdling ☒

Dead ☐ Decay ☐ Conks/Mushrooms ☐

Ooze ☐ Cavity ☐ ____% circ.

Cracks ☐ Cut/Damaged roots ☐ Distance from trunk _____

Root plate lifting ☐ Soil weakness ☐

Response growth _____

Condition(s) of concern Covered by Concrete

Part Size _____ Fall Distance _____

Load on defect N/A ☐ Minor ☐ Moderate ☒ Significant ☐

Likelihood of failure Improbable ☐ Possible ☐ Probable ☐ Imminent ☐

Risk Categorization

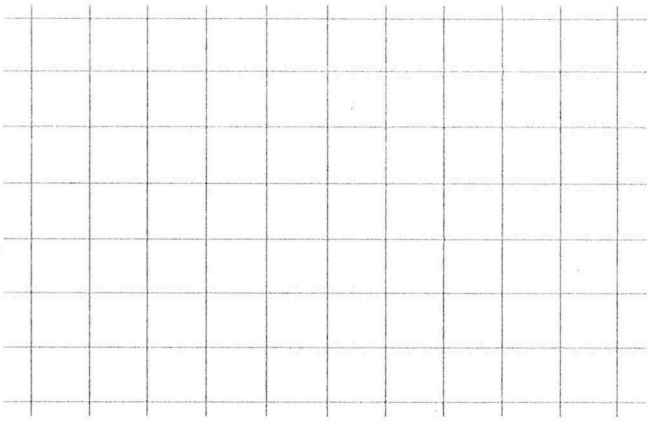
Target (Target number or description)	Tree part	Condition(s) of concern	Likelihood: Failure: Improbable	Failure: Possible	Failure: Probable	Failure: Imminent	Impact: Very low	Impact: Low	Impact: Medium	Impact: High	Failure & Impact (from Matrix 1): Unlikely	Failure & Impact: Somewhat	Failure & Impact: Likely	Failure & Impact: Very likely	Consequences: Negligible	Consequences: Minor	Consequences: Significant	Consequences: Severe	Risk rating (from Matrix 2)
Building	Roots			X						X			X				X		
Concrete						X								X			X		
Pipes					X				X			X				X			

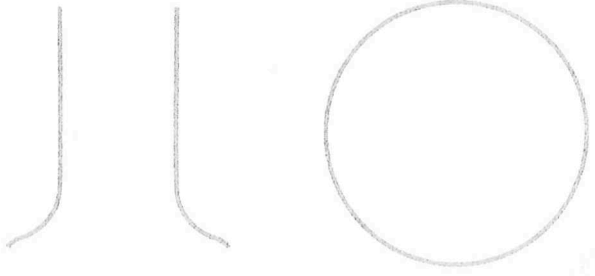
Matrix 1. Likelihood matrix.

Likelihood of Failure	Likelihood of Impact			
	Very low	Low	Medium	High
Imminent	Unlikely	Somewhat likely	Likely	Very likely
Probable	Unlikely	Unlikely	Somewhat likely	Likely
Possible	Unlikely	Unlikely	Unlikely	Somewhat likely
Improbable	Unlikely	Unlikely	Unlikely	Unlikely

Matrix 2. Risk rating matrix.

Likelihood of Failure & Impact	Consequences of Failure			
	Negligible	Minor	Significant	Severe
Very likely	Low	Moderate	High	Extreme
Likely	Low	Moderate	High	High
Somewhat likely	Low	Low	Moderate	Moderate
Unlikely	Low	Low	Low	Low





Notes, explanations, descriptions

Tree Causing damage to surroundings
i.e Pipes, Concrete Sidewalk, Building

Mitigation options

1. _____ **Residual risk** _____
2. _____ **Residual risk** _____
3. _____ **Residual risk** _____
4. _____ **Residual risk** _____

Overall tree risk rating Low ☐ Moderate ☐ High ☐ Extreme ☐

Overall residual risk None ☐ Low ☐ Moderate ☐ High ☐ Extreme ☐ **Recommended inspection interval** _____

Data ☐Final ☐Preliminary **Advanced assessment needed** ☐No ☐Yes-Type/Reason _____

Inspection limitations ☐None ☐Visibility ☐Access ☐Vines ☐Root collar buried Describe _____

Legislation Details (With Text)

File #:	23-63	**Version:**	1	**Name:**	
Type:	Informational Item			**Status:**	Agenda Ready
File created:	1/20/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	This is an informational agenda item regarding an Emergency Purchase being declared on December 21, 2022 for Crom, LLC to Perform Emergency Repairs on the Dyal WTP Clarifier #3 in accordance with the Financial Operations Manual (FOM) Chapter 12.2-B. “Exceptions to Competitive Sealed Bidding” for Emergency Purchases. (Utilities Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Proposal - Christmas, FL 20220520.pdf COI - Exp 12-31-23.PDF CCR_W9_2023.PDF Fwd Emergency Purchase Declaration and Justification.msg Contingency Resolution for CROM.pdf Clarifier 3 Exempt Vendor Resolution.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: January 24, 2023
Agenda Date: February 15, 2023
Prepared By: John Perrin, P.E., Senior Engineer
Through: Jack Walsh, P.E., Utilities Director
Requested Action:
This is an informational agenda item regarding an Emergency Purchase being declared on December 21, 2022 for Crom, LLC to Perform Emergency Repairs on the Dyal WTP Clarifier #3 in accordance with the Financial Operations Manual (FOM) Chapter 12.2-B. “Exceptions to Competitive Sealed Bidding” for Emergency Purchases.

BACKGROUND:

The Dyal Water Treatment Plant (WTP) has three clarifiers as part of the groundwater treatment train, of which two must be operating at all times in order to provide adequate water supply to Cocoa’s water service area. On December 21, 2022, Clarifier #3 experienced a structural failure.

Given time is of the essence to repair the structure, on December 21, 2022, the City Manager declared an emergency and approved the mobilization of a contractor. Staff decided to have Crom, LLC make the repairs since they were the original tank manufacturer and would be most familiar with

the work structure.

On January 27, 2023, Purchase Order number 803611 was issued to Crom, LLC., of Gainesville, Florida in the amount of $76,670.00 for the emergency repairs to Clarifier #3 for the Dyal WTP.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

Budgeted	Yes
If not budgeted, is amendment/transfer attached?	N/A
Amount	$76,670.00
Account Number	421-4020-536.46-00, DY20CL
Account Name	Repairs and Maintenance
Source of Funds:	Operating Revenue

PREVIOUS ACTION:

None

RECOMMENDED MOTION:

This is an informational agenda item regarding an Emergency Purchase being declared on December 21, 2022 for Crom, LLC to Perform Emergency Repairs on the Dyal WTP Clarifier #3 in accordance with the Financial Operations Manual (FOM) Chapter 12.2-B. “Exceptions to Competitive Sealed Bidding” for Emergency Purchases

January 13, 2023

PROPOSAL 20220520

CLARIFIER CHANNEL AND WEIR BOX REPAIRS
1,275,000-GALLON LIME SOFTENING CLARIFIER
CHRISTMAS, FLORIDA

CROM Coatings and Restorations, a Division of CROM, LLC ("CCR") proposes to provide labor and material for the repair of the prestressed concrete tank for The City of Cocoa, Florida ("Client"). All work will be completed in accordance with all applicable codes and standards including OSHA, AWWA, ACI and standard prestressed concrete tank design.

1. DRAWINGS, SPECIFICATIONS, AND OTHER REQUIRED DATA

   The Client or a duly authorized representative, is responsible for providing CCR with a clear understanding of the project nature and scope as is reasonably known to the Client. The Client shall supply CCR with sufficient and adequate information, including, but not limited to, maps, site plans, reports, surveys, and designs, to allow CCR to properly complete the specified services. The Client shall also communicate changes in the nature and scope of the project as soon as possible during performance of the work so that the changes can be incorporated into the work product.

   Prior to starting work, CCR will request from Client data reasonably required for submittal purposes for the repair of the aforementioned storage tank including any available computations, detailed drawings, and specifications. If, in the opinion of CCR, adequate data is not available or is incomplete, Client will be informed and arrangements made for creation of needed data. CCR will not perform engineering studies or perform work requiring professional engineering duties but will assist Client in obtaining such services.

2. INSURANCE

   CCR represents and warrants that it and its agents, staff and Consultants employed by it is and are protected by worker's compensation insurance and that CCR has such coverage under public liability and property damage insured policies which CCR deems to be adequate. Certificates for all such policies of insurance shall be provided to Client upon request in writing. Within the limits and conditions of such insurance CCR agrees to indemnify and save Client harmless from and against loss, damage, or liability arising from negligent acts by CCR, its agents, staff and consultants employed by it. CCR shall not be responsible for any loss, damage or liability beyond the amounts, limits, and conditions of such insurance or the limits described in Section 7, whichever is less. The Client agrees to defend, indemnify, and save CCR harmless for loss, damage or liability arising from acts by Client, Client's agent, staff, and other consultants employed by Client. Any bond requirement(s) by Client will carry an additional cost unless the parties agree otherwise.

3. SERVICES TO BE FURNISHED BY CCR

   CCR proposes to furnish all supervision, labor, material, and equipment required to complete the work, except as noted in Paragraph 4. The services to be furnished by CCR are specifically:

This scope of work is to be performed on the following tank:

- 1,250,000-Gallon Clarifier No.3
  100'-0" ID x 21'-2" SWD (Open Top)
  (CROM Job No. 1994-M-029.01)

a. Mobilization of crew, equipment, and material to job site.

b. Set up shoring to support the steel structure while repairs are made. Shoring will be left in place for the duration of the project.

c. Saw cut a perimeter **up to 40 linear feet** at a 1/2-inch maximum.

d. Chip away loose and or damaged spalled concrete up to **40 square feet.**

e. Mechanically prepare the surfaces of the concrete **up to 40 square feet** removing scale and rust from exposed reinforcing bars while providing a surface profile equal to or greater than CSP 6.

f. Pressure wash at a 3,500 psi minimum to 5,000 psi of the concrete surfaces removing any loose and unsound coatings, dirt, oil, grease, and other contaminants from the substrate.

g. Replace and or splice in new rebar as needed to repair corroded and or damaged reinforcing bars.

h. Mechanically repair any damages to the weir channel. Place weir channel into position as per document specifications (confirmation to be provided by owner).

i. Coat exposed metal with a bonding epoxy and reinforcement corrosion protection.

j. Apply a high mod / high strength bonding epoxy to the prepared concrete surface.

k. Install formwork and bracing supports, as required.

l. Place repair mortar into formwork.

m. Remove formwork.

n. Reinstall weir channel into place utilizing new mounting hardware. Final alignment will be confirmed by client.

o. Fabricate and install a new weir channel support bracket.

4. MATERIALS AND SERVICES FURNISHED BY CLIENT OR OTHERS

It is understood that the following services shall be provided by others without expense to CCR:

a. Client will grant or obtain free access to the site for all equipment and personnel necessary for CCR to perform the work set forth in this Proposal. The Client will notify any and all processors of the project site that Client has granted CCR free access to the site. CCR shall be responsible for site cleanup and repair of any damages caused by CCR or its subcontractors.

b. The Client is responsible for the accuracy of locations for all subterranean structures and utilities. CCR will take responsible precautions to avoid known subterranean structures, and the Client waives any claim against CCR, and agrees to defend, indemnify, and hold CCR harmless from any claim or liability for injury or loss, including costs to defend, arising from damage done to subterranean structures and utilities not identified or accurately located. In addition, Client agrees to compensate CCR for any time spent or expenses incurred by CCR in defense of any such claim with compensation to be based upon CCR's prevailing fee schedule and expense reimbursement policy.

c. A continuous supply of potable water under 50 psi pressure at the rate of 60 gallons per minute for the use of the CCR crew within 100 feet of each tank site.

d. A continuous supply of electricity during the period of work: one 100-AMP, 110/220-volt service for the operation of our power tools and accessories, located not more than 100 feet from each tank. Please be sure that all circuit breakers are ground-fault protected. If it is necessary for CCR to supply its own electric power, add $500.00 per week to the contract amount.

e. Any permit or other fees from any AHJ as may be required for the work including but not limited to all connect/disconnect, impact and building/construction fees.

f. Drainage and disposal of the tank's contents.

g. Refilling, disinfecting, bacteriological sampling, and testing of the tank’s contents.

h. Cleaning the interior and exterior of the tank and accessories.

i. Complete lock-out and tag-out of the subject tank prior to personnel entering each tank. The Client will be required to provide all materials for this process. The Client will be responsible for demonstrating to CCR that the lock-out procedure is complete, and the tank is rendered "safe" before CCR will perform air quality testing to enter each tank.

j. All professional engineering design services.

k. Confined space compliance including hole watch, ventilation, and retrieval system.

l. Proper environmental conditions including ambient temperature, moisture control and curing conditions.

m. Adhesion testing as required by the specifications.

5. BACK CHARGES AND CLAIMS FOR EXTRAS

No claim for extra services rendered or materials furnished will be valid by either party unless written notice thereof is given during the first ten days of the calendar month following that in which the claim originated. CCR's claims for extras shall carry 30% for overhead and 10% for profit. Any mutually agreed upon deductive change order will provide only a credit for 10% profit but will not provide a credit for 30% overhead.

6. LIMIT ON INDIVIDUAL LIABILITY OF DESIGN PROFESSIONAL

LIMITATION ON INDIVIDUAL LIABILITY OF DESIGN PROFESSIONAL - TO THE EXTENT PERMITTED BY LAW, AN EMPLOYEE, AGENT, DESIGN PROFESSIONALS, OR ENGINEERS

EMPLOYED BY CCR SHALL NOT BE INDIVIDUALLY LIABLE FOR NEGLIGENCE OCCURRING WITHIN THE COURSE AND SCOPE OF EMPLOYMENT WITH CCR UNDER THIS PROPOSAL TO AN OWNER, CONTRACTOR, SUBCONTRACTOR, OR TO ANY THIRD PARTY CLAIMING BY AND THROUGH THESE PARTIES.

7. RISK ALLOCATION

Client agrees that CCRs liability for any damage on account of any error, omission or other professional negligence will be limited to a sum not to exceed $50,000 or CCR's fee, whichever is greater. Client agrees that the foregoing limits of liability extend to all of CCR's employees and professionals who perform any services for Client. If Client prefers to have higher limits on general or professional liability, CCR agrees to increase the limits up to a maximum of $1,000,000.00 upon Clients' written request at the time of accepting our proposal provided that Client agrees to pay an additional consideration of four percent of the total fee, or $400.00, whichever is greater. The additional charge for the higher liability limits is because of the greater risk assumed and is not strictly a charge for additional professional liability insurance.

8. ASSIGNMENT AND THIRD PARTIES

Neither the Client nor CCR may delegate, assign, sublet or transfer their duties or any interest in this Proposal without the written consent of the other party. Both parties agree there are no intended third-party beneficiaries to this Proposal including other contractors or parties working on the project, or, if necessary, a surety of CCR.

9. LABOR

This proposal is predicated on open-shop labor conditions, using our own personnel. If we are required to employ persons of an affiliation desirable to the Client or other contractor employed by him or the general contractor thereby resulting in increased costs to us, the contract price shall be adjusted accordingly. Such requirement shall not provide that CCR sign a contract with any labor organization. In the event of a labor stoppage, we shall not be in default or be deemed responsible for delay of the progress of this contract or damage to the Client or the contractor so long as CCR has sufficient qualified employees available to perform the work.

Our proposal is based on our crew performing our Scope of Work in accordance with our standard safety program. If any additional safety requirements are placed on us (not required by OSHA) such as: site training, additional safety equipment or permit required confined space, the cost for such additional requirements plus 30% for overhead shall be reimbursed to us.

10. SCHEDULE, COMMENCEMENT, AND DELAYS

Based on the Client’s request, this scope of work is anticipated to begin field construction on January 23, 2023 (Anticipated Construction Start Date). This quotation is valid for **30 days**. Should the anticipated construction start date change during project execution, a new quotation will be required to reflect updated pricing due to market changes. Furthermore, a new mutually agreeable Commencement Date will be incorporated into this Proposal (or other agreement between us). If the readiness of the project site or conditions do not allow efficient execution of our work on or before the Anticipated Construction Start Date or Commencement Date (whichever governs), our contract price will increase $55.00 per man hour of crew delay until other productive work can be scheduled for the assigned crew.

An agreement must be executed between us to allow sufficient time for preparation of our design drawings and other submittals. CCR will be prepared to start work on **January 23, 2023** and will undertake to furnish

sufficient labor, materials, and equipment to complete construction of our scope of work within approximately **3 crew weeks** working time thereafter. Confirm that these milestones and durations are considered when selecting the Commencement Date above.

It is agreed that we shall be permitted to execute our work without interruption. If delayed at any time for a period of 24 hours or more by an act or neglect of the owner, his representative, or other contractor employed by him, or by the general contractor, or by reason of any changes ordered in the work, we shall be reimbursed for our actual additional expense caused by such delay, including loss of use of our equipment, plus 30% for overhead.

In the event an agreement apart from this proposal is preferred, such agreement shall include this Proposal and all the conditions herein unless both parties agree in writing to specifically omit any condition.

11. QUOTATION

We are prepared to carry out this work in accordance with the foregoing for the lump sum of:

Clarifier Weir Channel Repair:	**$76,670.00**

Please Note:
The above total includes mobilization.

Periodic and final payment, including any retention, shall be made within **30 days** from the date our work is completed, or the billing is received, or in accordance with applicable state Prompt Payment law, whichever is earlier, and is to be received by us in our accounting office at 250 SW 36th Terrace, Gainesville, Florida 32607. All costs for third party contracts and billing management services, or use of any software, as may be required by the Customer or Owner, will be added to the Contract Price, by change order. Final payment shall not be held due to delays in testing. Payment not received by that date will be considered past due and will be subject to a late payment charge of 1½% per calendar month, or any fraction thereof until received in our office.

If CCR does not receive payment within 7 days after such payment is due, as defined herein, CCR may give notice, without prejudice to and in addition to any other legal remedies and may stop work until payment of the full amount owing has been received. The Proposal Amount and Time shall be adjusted by the amount of CCR's reasonable and verified cost of shutdown, delay, and startup, which shall be effected by an appropriate change order.

Any reasonable legal or other expense necessary for the enforcement of this Proposal or for the collection of monies due shall be borne by the party at fault. If sales tax is excluded from our price, or on materials contained in our price, in accordance with project specifications, such exclusion is subject to receipt of adequate tax exemption documents from you or the project owner prior to commencement of Work to allow for our application of same. If proper tax exemption documentation is not received or is not adequate to provide exemption, we reserve the right to receive reimbursement of all sales tax CCR is obligated to pay due to the tardiness, lack of, or inadequate exemption documentation on behalf of you or the owner.

12. ARBITRATION/DISPUTE RESOLUTION AND VENUE

Any controversy or claim relating to the contract between us shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment by the arbitrator(s) may be entered in any court having jurisdiction. The claim will be brought and tried in judicial jurisdiction of the court of the state and county where CCR's principal place of business is located and Client

waives the right to remove the action to any other county or judicial jurisdiction, and the prevailing party will be entitled to recovery of all reasonable costs incurred, including staff time, court costs, attorneys' fees and other claim related expenses the venue for any litigation under this Agreement shall be in Alachua County, Florida. If CCR engages an attorney for the collection of the amounts due from the Client, the Client shall pay CCR its reasonable attorney's fees and costs through any appeal. The laws of the State of Florida will govern the validity of these terms, their interpretation and performance. If any of the provisions contained in this Agreement are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired. Limitations of liability and indemnities will survive termination of this Agreement for any cause.

13. CHANGES IN SCOPE AND LIMITATIONS

If the Client wishes to have CCR perform any additional repairs or remediation of the tank or accessories, it shall authorize such work in writing and pay CCR its standard rates for such work.

It is agreed that CCR shall not be responsible for any consequential, special or delay damages or any force majeure events, including but not limited to acts of God and pandemic. CCR does not assume responsibility for differing, latent or concealed conditions, which differ materially from those indicated in the Subcontract/Contract documents or from those ordinarily found to exist and not inherent in the Work, including but not limited to weather or subsurface conditions, and not caused by CCR's fault or negligence.

14. TERMINATION

This agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof. Such termination shall be effective if that substantial failure has been redeemed before expiration of the period specified in the written notice. In the event of termination, CCR shall be paid for services performed to the termination notice date plus reasonable termination expenses.

In the event of termination, or suspension for more than three (3) months prior to completion of all work contemplated by the proposal, CCR may complete such analyses and records as necessary to complete their files and may also complete a report on the services performed to the date of notice of termination or suspension. The expense of termination or suspension shall include all direct costs of CCR in completing such analyses, records and reports if necessary.

15. GUARANTEE

CCR will guarantee its workmanship and materials on its work covered in this Proposal for a period of one-year after completion of its work. Prior to leaving the location, CCR personnel will perform a walk through with the responsible party overseeing our work for the Client. In case any defects in CCR's workmanship or materials appear within the one-year period after completion and acceptance of CCR's work, CCR shall promptly make repairs at its own expense upon written notice by the Client that such defects have been found. CCR's guarantee is limited to defects in CCR's workmanship and materials, excluding inspections, cleaning, and disinfection services ("Services"). CCR shall endeavor to perform these Services with that degree of care and skill ordinarily exercised under similar circumstances by contractors practicing in the same discipline at the same time and location. CCR shall not be responsible for, nor liable for, delamination of previous coatings application, any ordinary wear and tear or for damage caused from negligent or inappropriate use or by any other entity beyond our control, including but not limited to modifications, work, or repairs by others.

If a bond is required for the Scope of Work included in this contract, CCR will furnish a one-year Performance and Payment Bond. The cost of this bond is **not included** in our price. Please add $9.00 per $1,000 of contract value.

16. ACCEPTANCE

This proposal is offered for your acceptance within **30 days** from the proposal date. We reserve the right after that period to amend our proposal to reflect our changing construction schedules and materials and labor rate changes. The return to this company of a copy of this proposal with your acceptance endorsed thereon within the time aforesaid will constitute a contract between us. This proposal shall be made a part of any subcontract agreement or purchase order.

Sincerely,

CROM Coatings and Restorations, a Division of CROM, LLC

Cliff Dykes
Business Development Manager

Brett Bohannon
Region Lead

/bfb.jm

ACCEPTED BY CLIENT

_____

PRINT: _____

TITLE: _____

DATE: _____

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 01/13/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Willis Towers Watson Northeast, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 372305191 USA	**CONTACT NAME:** Willis Towers Watson Certificate Center **PHONE (A/C, No, Ext):** 1-877-945-7378 **FAX (A/C, No):** 1-888-467-2378 **E-MAIL ADDRESS:** certificates@willis.com
INSURED CROM, LLC 250 SW 36th Terrace Gainesville, FL 32607	**INSURER(S) AFFORDING COVERAGE** / **NAIC #** **INSURER A :** Ironshore Specialty Insurance Company — 25445 **INSURER B :** Liberty Mutual Fire Insurance Company — 23035 **INSURER C :** Indian Harbor Insurance Company — 36940 **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** W27912117 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [X] LOC [ ] OTHER:	Y	Y	IEPICB5Z9Y003	12/31/2022	12/31/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 500,000 $ 25,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
B	AUTOMOBILE LIABILITY [X] ANY AUTO [X] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [X] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY [X] Hired Auto [X] Physical Damage	Y	Y	AS2-Z91-469956-032	12/31/2022	12/31/2023	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) Comp./Coll. Ded.	$ 1,000,000 $ $ $ $ 2,500.00
A	[ ] UMBRELLA LIAB [X] OCCUR [X] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $	Y	Y	IEELCASB5Z99003	12/31/2022	12/31/2023	EACH OCCURRENCE AGGREGATE	$ 1,000,000 $ 1,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N: No (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	Y	WC6-Z91-469956-022	12/31/2022	12/31/2023	[X] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
C	Pollution Liability Coverage			CEO744656006	12/31/2022	12/31/2023	Each Claim Aggregate SIR	$10,000,000 $10,000,000 $100,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

SEE ATTACHED

CERTIFICATE HOLDER

City of Cocoa
65 Stone Street
Cocoa, FL 32922

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



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AGENCY CUSTOMER ID: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

AGENCY Willis Towers Watson Northeast, Inc.	NAMED INSURED CROM, LLC 250 SW 36th Terrace Gainesville, FL 32607
POLICY NUMBER See Page 1	
CARRIER See Page 1 / NAIC CODE See Page 1	EFFECTIVE DATE: See Page 1

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

City of Cocoa and FDOT are included as an Additional Insureds as respects to General Liability, Auto Liability and Umbrella/Excess Liability if required by written contract.

General Liability, Auto Liability and Umbrella/Excess Liability policies shall be Primary and Non-contributory with any other insurance in force for or which may be purchased by Additional Insureds if required by written contract.

Waiver of Subrogation applies in favor of Additional Insureds with respects to General Liability, Auto Liability, Umbrella/Excess Liability and Workers Compensation if required by written contract and as permitted by law.

INSURER AFFORDING COVERAGE: Indian Harbor Insurance Company NAIC#: 36940

POLICY NUMBER: CEO744656006 EFF DATE: 12/31/2022 EXP DATE: 12/31/2023

TYPE OF INSURANCE:	LIMIT DESCRIPTION:	LIMIT AMOUNT:
Professional Liability	Each Claim	$10,000,000
	Aggregate	$10,000,000
	SIR	$100,000

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SR ID: 23614999 BATCH: 2809800 CERT: W27912117

Embedded Adobe XML Form

The file *https://cocoa.legistar.com/View.ashx?M=F&ID=11707284&GUID=B262949E-171A-4171-A841-2E6149F11773* is an Adobe XML Form document that has been embedded in this document. Double click the pushpin to view.



RESOLUTION NO. 2023-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA; AUTHORIZING THE CITY MANAGER TO APPROVE AND EXECUTE CHANGE ORDERS FOR THE CROM, LLC EMERGENCY WORK REQUEST IN AN AMOUNT NOT TO EXCEED THE TOTAL AMOUNT BUDGETED FOR THE REPAIRS AUTHORIZED BY THE CITY COUNCIL INCLUSIVE OF THE $11,500.00 CONTINGENCY SET ASIDE FOR THE PROJECT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, section 2-4 of the City Code provides that with respect to construction contracts approved by the City Council, the City Council may authorize by resolution the City Manager to approve change orders to the primary construction contract and any additional service contracts related to the completion of the construction project authorized by the City Council in excess of the spending authority limits under this section provided the amount is within the unexpended construction budget approved by the City Council for the project including any contingency funds approved by the City Council for said contract; and

WHEREAS, on February 14, 2023, the City Council authorized the City Manager to proceed with the Emergency Repair Work with CROM, LLC. for Repairs to the #3 Clarifier Unit for the Dyal WTP, subject to certain terms and conditions and budget adjustments approved by the City Council; and

WHEREAS, in conjunction with this authorization, the City Council desires to streamline the approval of change orders and any additional service contracts to the extent necessary in order to expedite the construction of the project; and

WHEREAS, the City Council deems it to be in the best interest of the City of Cocoa to authorize the City Manager to approve the aforementioned change orders and any additional service contracts consistent with the terms of this Resolution and Section 2-4 of the City Code even if said amounts exceed the City Manager's general spending authority approved by the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, as follows:

SECTION 1.

(A) Pursuant to Section 2-4 of the City Code, the City Manager is hereby authorized to approve any change orders for Emergency Repairs to the #3 Clarifier Unit at the Dyal WTP, provided the total amount of approved change orders and any additional service contracts do not cause the budget to exceed the total $88,170 budgeted by the City Council for the services inclusive of the $11,500 contingency amount set aside for the project. This grant of spending authority shall be interpreted and construed in accordance with the provisions of Section 2-4 of the City Code.

(B) Pursuant to Section 2-4 of the City Code, the City Manager shall also provide notice of any such approved change orders and any additional service contracts to the City Council in the form of an agenda item at the next scheduled City Council meeting or as soon as practicable thereafter.

SECTION 2. All prior resolutions or prior resolutions inconsistent with this resolution are hereby repealed to the extent of the conflict.

SECTION 3. This resolution shall become effective immediately upon its adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on February 14, 2023.

_____
Michael C. Blake, Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk

RESOLUTION NO. 2023-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, WAIVING THE COMPETITIVE BIDDING PROCESS AND SETTING FORTH THE BASIS OF THE CITY MANAGER'S RECOMMENDATION THEREOF BY EXHIBIT; PROVIDING FOR REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 2 of Article XIII of the City Charter of the City of Cocoa and Section 2-4 of the City Code of the City of Cocoa provides that competitive bidding is required for all purchases unless certain requirements are met for exceptions to the bidding requirement; and

WHEREAS, the City Manager has recommended that the competitive bidding requirement be waived for the purchase or public improvement described in Exhibit "A" attached to this resolution and by this reference incorporated herein; and

WHEREAS, the City Council has determined that competitive bidding for the purchase described in Exhibit "A" would not be in the City's best interest.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, **BREVARD COUNTY, FLORIDA, that:**

SECTION 1. The purchase described in Exhibit "A" is hereby approved and the competitive bidding requirement is hereby waived. The basis for the City Manager's recommendation that a competitive bidding procedure would not be in the City's best interest is attached to this resolution and by this reference incorporated herein.

SECTION 2. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 3. This resolution shall become effective immediately upon adoption by the Cocoa City Council.

ADOPTED by the City Council of the City of Cocoa, Florida, in a Regular Meeting assembled on the 14th day of February, 2023.

_____

Michael C. Blake, Mayor

ATTEST:

_____

Carie Shealy, MMC, City Clerk

EXHIBIT "A"

To Resolution No. 2023-xxx

The City Manager recommends that the competitive bidding requirement be waived, by reason of sole source, for the purchase of performing an emergency assessment, repairs, service, and materials for repairs to the Clarifier #3 Effluent Launder at the Dyal Water Plant.

The Department Director has provided supporting documentation toward justification of the waiver, based on sole source, as an exception to the sealed bidding process; and based on this documentation, I support approval of this resolution.

_____

Stockton Whitten
City Manager

Legislation Details (With Text)

File #:	23-181	**Version:**	1	**Name:**	
Type:	Informational Item			**Status:**	Agenda Ready
File created:	3/7/2023			**In control:**	City Council
On agenda:	3/14/2023			**Final action:**	
Title:	City Council Bi-Weekly Report for February 24-March 9, 2023. (City Manager)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Council bi-weekly report template (1).pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: March 8, 2023
Agenda Date: March 14, 2023
Prepared By: Carie Shealy, City Clerk
Through: Stockton Whitten, City Manager
Requested Action:
City Council Bi-Weekly Report for February 24-March 9, 2023.

BACKGROUND:

na

STRATEGIC PLAN CONNECTION:

na

BUDGETARY IMPACT:

na

PREVIOUS ACTION:

na

RECOMMENDED MOTION:

City Council Bi-Weekly Report for February 24-March 9, 2023.

To: Mayor and City Council Members

From: Stockton Whitten, City Manager

Date: February 24 – March 9, 2023

Subject: Council Update Report

This report is intended to serve as a departmental update to City Council. While not all inclusive, it should provide you with an idea of key activities departmental staff are involved in. If you have any questions on any of the items, please feel free to contact me.

Administrative Services

- Records request stats: 20 received/ 16 closed out/ $0 collected
- Employment opportunities link: https://www.governmentjobs.com/careers/cocoafl
  - 23-056: Assistant Fire Chief, Fire Department/Administration
  - 23-005: Backflow Technician, Utilities/Water Field Operations
  - 23-042 Certified Operator A, B, C/Apprentice Operator, Utilities/Sellers Treatment Plant
  - 23-052: Dispatcher/Communications Officer, Police/Communications
  - 23-050: Firefighter (EMT), Fire/Operations
  - 23-057: Heavy Equipment Operator, Utilities/Water Field Operations
  - 23-018: Industrial Electrician I & II, Utilities/Sellers Treatment Plant
  - 23-053: Industrial Electrician I, Utilities/Sewer Field Operations
  - 23-046: Instrumentation Technician, Utilities/Dyal Water Treatment Plant
  - 23-035: Maintenance Worker I, Utilities/Sewer Field Operations
  - 23-006: Maintenance Worker I, Utilities/Field Operations
  - 23-004: Maintenance Worker II, Public Works/Stormwater & Streets
  - 23-032: Maintenance Worker II, Public Works/Grounds
  - 22-086: Planner / Senior Planner, Growth and Economic Development
  - 23-054: Police Lieutenant, Police/Administration
  - 23-049: Police Officer, Police/Administration
  - 23-011: Police Officer Trainee, Police/Administration
  - 23-012: School Crossing Guard (Part-Time), Police/Administration
  - 23-055: Utilities GIS/CAD Technician, Utilities/Engineering
  - 23-031: Utilities Mechanic I, Utilities/Sellers
  - 23-008: Utility Mechanic I, Utilities/Dyal

    - 23-047: Utilities Mechanic I, Utilities/Sewer Field Operations
    - 23-045: Utilities Mechanic I, Utilities/Water Field Operations
- New employees
    - Brian Turner, Maintenance Worker I, Utilities/Water Field Operations
    - Albert Ingham, Meter Reader, Finance/Field Services
- Recent promotions
    - Duane Whitley – Crewleader, Supervisor III, Utilites/WFO, March 6, 2023
    - Jairo Aburaad – Utilities Field Service Representative, Finance/Field Services March 20, 2023
- Key retirements
    - Fred Farmer, Industrial Electrician II, UT/Dyal, March 24, 2023 – 14 yrs
    - Russell Sengel, Fire Lieutenant/EMT, Fire Operations, March 29, 2023 – 31 yrs
    - John Burton, Supervisor II, UT/SFO, March 24, 2023 - 24 yrs
    - Lorna Ettman, Engineering Representative, UT/Eng, June 30, 2023 – 24 yrs

Communication and Economic Development

- New news releases:
    - Chlorine Conversion Notice for all Water Customers
    - Crime Rate Decreases for 2nd Year in a Row
    - New Building Permit Kiosk Available at City Hall
    - Council Priorities & Planning Special Meeting in Review
    - Cocoa CRA Approves RFP to improve Vehicle Parking at Lee Wenner Park
- Media Stories
    - Cocoa seeks developer to build new hotel with shops and restaurants on city-owned land
    - Cities Turn to Fleet Management Solutions to Confront Severe Weather
    - City of Cocoa Designated a Tree City USA, Enter Your Favorite Tree Image in Annual Photo Contest
    - Affordable Housing Properties
        - City of Cocoa looks to sell property to build affordable housing
        - Cocoa to list lots for affordable housing as part of state initiative
    - Stone Funeral Home
        - Black funeral home in Cocoa celebrates 100 years in business
        - Cocoa's Stone Funeral Home makes history with 100 years in business
    - 'Chief's Watch' citizen meetings designed to increase community involvement in Cocoa policing
    - Cocoa Warns of spam calls by fake Titusville tax accessor
    - City of Cocoa removing docks damaged during hurricane season
    - 2023 Historic Cocoa Village Spring Fine Art and Craft Fair
    - WATCH: Cocoa Police Unveils the Florida Department of Law Enforcement's Crime Report for 2022
    - Cocoa Police Detectives, SWAT Team Arrest Two Suspects for Drugs and Weapons Near Jackson Street
    - Brevard Humane Society Mardi Gras Paws in the Park
- Upcoming Events:

- March 20, 2023 – Council Priorities and Planning Special Meeting, Council Chambers
- April 1, 2023 – Trash Bash
- April 4, 2023 – Citizens Academy Session: Community Engagement/Leisure Services
- February 1-March 15, 2023 – UpStart Application Window is open (8 applications have been received so far)

- Social media/e-newsletter statistics
  - Facebook
    - Post reach: 31,480
    - Post engagement: 12,393
    - Followers: 14,794
  - Twitter
    - Impressions: 7,492
    - Followers: 3,033
  - LinkedIn
    - Post impressions: 947
    - Followers: 1,022
  - NextDoor
    - Impressions: 6,937
    - Members: 3,940
  - March e-newsletter (Sent 3/6/23)
    - Sent to 657 contacts
    - 45% open rate (average open rate for e-mail marketing in 2022 is 17%)
  - Next printed FYI Newsletter mails April 1, 2023.
- Upcoming special events at Leisure Services facilities:
  - **Cocoa Village Concours Car Show**
    - March 25, 2023, 10am - 5pm
    - Cocoa Village and Riverfront Park
  - **The Village Idiot Pub Spring Street Party**
    - March 31, 2023, 6-10:30pm
    - Harrison Street – Cocoa Village
  - **Trash Bash**
    - April 1, 2023, 8a-1p
    - City of Cocoa and Cocoa Riverfront Park
  - **Rockledge Youth Football and Cheerleading Easter in the Park**
    - April 8, 2023, 10a-7p
    - Cocoa Riverfront Park

Community Services - update 3/8/2023

- Major project updates
  - Cocoa Grand Apartments ~95% complete
  - Integra Apartments ~60% complete
  - Cirrus Apartments ~40% complete
- New businesses –February 18 – March 7, 2023

    - D1 – 2
        - Iron Valley Real Estate – 840 N. Cocoa Blvd.
        - Brevard Tropical Lawn & Home Services (Home Based Business)
    - D2 – 0
    - D3 – 0
    - D4 – 0
    - 2 Full Time / 0 Part Time employees added City-wide
- Permit/Inspection stats
    - 320 permits issued in 2023
    - 957 inspections in 2023
    - 170 permits under review

Finance

- Old Joe Lee Smith Center RFP pre-proposal meeting held on 9/9
- Interim audit is being performed
- Preparing for 9/30 year-end procedures
- Final TRIM hearing on 9/27 City Council meeting for FY23 budget adoption
- Dates/limits for water service interruptions due to non-payment over the holidays is as follows:
    - Thanksgiving week – no interruptions
    - No interruptions 12/22
    - No interruption 12/27
    - No interruption 1/3

Fire Department

- Call stats (Fire/EMS)
- Inspection stats
    - Annual Fire Inspections: 72
    - New Business Fire Inspections: 3
    - Re-Inspections Completed: 91
    - New Construction Insp: 10 (1 AES Final, 2 Fire Alarm Rough-In, 3 Life Safety/Fire Finals, 1 Fire Sprinkler Final, 1 Hood Inspection, 2 Underground Line Inspection)
    - Knox Box Installations: 4
    - Fire Investigation: 2
    - Code Investigation-Complaints: 2
    - Public Education Outreach: 1 (Guardian MFG & Pinnacle Ozone Solutions Fire Extinguisher Training)
    - Meeting-Consultation: 4
    - Const. Plan Review: 21
    - Site Plan Review: 4
    - Total Inspections: 213

Information Technology

- Project updates/highlights
    - PD Server hardware successfully upgraded
    - ITB for replacement Storage Area Network (SAN) closed and bids were opened
    - EFSC intern has begun in IT
- Helpdesk stats as of 9/8/2022
    - 86 open helpdesk tickets
    - 479 new tickets opened in last 30 days
    - 462 tickets closed/resolved in last 30 days
    - 4844 tickets opened in last 365 days

Police Department Updated 2/2/23

- Activity/Event highlights
    - Book reading at Essence of Knowledge Urban Book Store 1/03
    - Emma Jewel Guest speaker 2/2
    - Children Hunger Society Team Building 1/12
    - Leadership Brevard 1/19
    - FDLE information sharing 1/24
    - BCACOP meeting 1/25
    - Boys and Girls Club Board Meeting 1/18
    - Hey Blue Plate Special Emma Jewel 1/21
    - Literacy Event Cocoa High 1/27
    - Faith Leaders Meeting 2/1
- New project/training updates
    - Lt. Roman 7 Habits of Highly Effective People 2/8-10
- Chief's walk highlights
    - 1/18 District 1 Stone St and Pineapple Ave
    - 2/7 Chief's Watch Joe Lee Smith Community Center

- Community engagement highlights/events
    - Story Time Cocoa Library 1/14
    - Homeless count in the city of Cocoa with James Smith from the Brevard Homeless Coalition 1/30
- Call stats-Crime Stats

Date Range:

- January 1, 2023- February 2, 2023 (For comparison purposes January 1, 2022- February 2, 2022, data is also included)
- Property Crimes Offenses have increased by 8%.
- Violent Crime Offenses decreased by 52% compared to YTD 2022.
- Overall, crime offenses have decreased by 3%.

- Code Enforcement stats/highlights/Activity:

Active Cases	134
Complied Cases	37

Code Board Cases scheduled for	16
Snipe Signs Pulled	62

Highlights:

- Removed (Abatement) Junk, Trash, & Debris from 922 W King St
- Current Sweeps – Crestview Mobile Home Park & Byrd Plaza

Other Mentions:

- January Code Board gave us a full board. 1 new member & 2 Alternates everyone appeared

Public Works

- Major project updates
  - Fiske and Broadmoor Acres – The City is seeking additional federal funding due to the bid price
  - Indian Circle Roadway Infiltration completed. Rear Lot Drainage is in progress.
  - Annual Resurfacing has been completed.
  - Parks Projects
    - Junny Rios – Design Completed
    - Provost – Design Completed
    - Stradley – Design Completed
    - Bracco – Equipment installation has started
  - Indian Circle Infiltration System installation is in progress
- Work order stats (received/closed) from February 1 – February 23
  - 147 received
  - 171 closed
  - Residential Bulk Green Waste Requests: 49
- Projects of interest managed by other agencies (FDOT, County, Brightline, etc.)
  - FDOT
    - SR 524 PD&E Study (437983-1) – In Progress
    - SR 501 Safety Project (447085-1) – In Design
    - US-1 Drainage Outfall Rehab (437116-1) – In Construction
    - SR 528 Widening and Reconstruction (407402-3) – In Design
    - SR 520 Safety Project Cox to Aurora (445689-1) - In Design
    - SR 520 Safety Project Aurora to Causeway (442885-1) - Out to Bid
  - Brightline/FEC
    - Testing is in progress

Utilities

- Capital Project Updates: https://www.cocoafl.org/1660/Utilities-Capital-Improvement-Projects
- Operations - February
    - Issued Work Orders – 999
    - Completed Work Orders – 1,215
    - Hydrants Flushed – 249
    - Valves Exercised – 232
    - Utility Locate Requests – 2,307