City of Cocoa

65 Stone Street
Cocoa, FL 32922

COCOA
FLORIDA

Meeting Agenda

Monday, October 15, 2018

6:00 PM

Cocoa City Council Chambers

Diamond Square RDA

I. CALL TO ORDER

ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

II. APPROVAL OF AGENDA AND MINUTES:

AGENDA:

1. 18-476 Approve the Agenda for the Regular Meeting of October 15, 2018, as presented or with amendments.

Attachments: DS CRA REGULAR MEETING AGENDA OCT 15 2018

MINUTES:

2. 18-477 Approve the Minutes for the Regular Meeting of September 17, 2018, as written or with amendments.

Attachments: Minutes 09-17-18 (Final)

III. DELEGATIONS:

In accordance with the Diamond Square CRA 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 Board 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 Recording Secretary. Please observe the time limit of five (5) minutes while speaking under Delegations. Delegations shall be limited to thirty (30) minutes unless extended by the CRA Board.

IV. PRESENTATIONS:

1. 18-499 Approve a Development Agreement between the Diamond Square CRA and Habitat for Humanity of Brevard County, Inc. to construct six (6) new single-family housing units for female veterans at 430, 450, 470, 490, 510 and 530 Whaley Street. Approve a Budget Transfer to move the funds from Infrastructure to Contract Services.

Attachments: BAF 19-006-CS-VeteranHousing (10-15-18)~ CRA 18-499 - FY19.pdf

Habitat Development Agreement 10-15-18a

V. ACTION ITEMS:

VI. UPDATES AND STAFF REPORTS:

1. 18-500 Informational - Project Updates

VII. NEXT MEETING DATE:

The next meeting of the Diamond Square Redevelopment Agency is November 19, 2018 at 6:00 PM. The meeting will be held in the Council Chambers at Cocoa City Hall located at 65 Stone Street.

VIII. ADJOURNMENT

NOTICE TO THE PUBLIC:

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.

City Code Section 2-54 requires that an affirmative vote of a majority of a quorum present shall be necessary to enact an ordinance or adopt any resolution; except that two-thirds of the membership of the Council is required to enact an emergency ordinance. All ordinances require two readings, entitled first reading and second reading and public hearing, prior to adoption.

Members of the public speaking on public hearing items, though entitled to be heard by the City Council, are not entitled to an immediate response by either administrative staff members or Council once the public hearing is closed; however, Council discussion may or may not include a response. No question by the public should be addressed directly by the Administrative staff.

Public debate by individual speakers from the audience on public hearing items shall be limited to three (3) minutes. Representatives of recognized groups 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 issue shall be allowed.

A Council member may add an item to the agenda during the meeting only at the time the agenda is approved. If the item requires action by the Council, then it may be added to the agenda by an affirmative vote of the Council, and written documentation must be submitted at the time the item is added to the agenda.

This agenda is posted on the Municipal Bulletin Board and at the Central Brevard Library and Reference Center in Cocoa for public review.

A Council member may add an item to the agenda during the meeting only at the time the agenda is approved If the item requires action by the Council then it may be added to the agenda by an affirmative vote of the Council and written documentation must be submitted at the time the item is added to the agenda.

This agenda is posted on the Municipal Bulletin Board and at the Central Brevard Library and Reference Center in Cocoa for public review.

This is a public meeting. All interested parties may attend. 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.

File #: 18-476, **Version:** 1

DIAMOND SQUARE REDEVELOPMENT AGENCY AGENDA ITEM

Memo Date: September 26, 2018
Agenda Date: October 15, 2018
Prepared By: Charlene Neuterman, Redevelopment Program Manager
Through: Karen D. Hamilton, Community Services Director
Requested Action:
Approve the Agenda for the Regular Meeting of October 15, 2018, as presented or with amendments.

BACKGROUND:

The Diamond Square CRA approves the agenda for all of its Regular Meetings at the beginning of such meetings.

BUDGETARY IMPACT:

PREVIOUS ACTION:

RECOMMENDED MOTION:

Approve the Agenda for the Regular Meeting of October 15, 2018, as presented or with amendments.

DIAMOND SQUARE
REDEVELOPMENT AGENCY

Tracy Moore
Chairperson

Delores Martin
Vice Chairperson

Ed Jones
Board Member

Jewel Collins
Board Member

Larry Robinson
Board Member

Sylvia Thomas
Board Member

REGULAR MEETING AGENDA

DATE: Monday, October 15, 2018
TIME: 6:00 p.m.

Location: Cocoa City Hall, Council Chambers
65 Stone Street

I. **CALL TO ORDER**
ROLL CALL
INVOCATION
PLEDGE OF ALLEGIANCE

II. **APPROVAL OF AGENDA**
AGENDA: Regular Meeting of October 15, 2018
MINUTES: Regular Meeting of September 17, 2018

III. **DELEGATIONS**

IV. **PRESENTATIONS**
1. Alliance for Neighborhood Restoration Annual Report – Delores McLaughlin

V. **ACTION ITEMS**
1. Diamond Square 2019 Calendar – Board direction needed for January 21 and February 18 meetings that fall on City Holidays.
2. Approve Developer Agreement with Habitat for Humanity of Brevard County, Inc.

VI. **UPDATES AND STAFF REPORTS**
1. Informational item: DS CRA Project Updates

VII. **NEXT MEETING DATE**
The next meeting of the Diamond Square Redevelopment Agency is November 19, 2018 at 6:00 PM. The meeting will be held in the Council Chambers at Cocoa City Hall located at 65 Stone Street.

VIII. **ADJOURNMENT**

NOTICE TO PUBLIC:
This is a public meeting. All interested parties may attend. The facility wherein this meeting will be held is accessible to the physically handicapped. Please be advised that more than one member of the City Council may attend. Pursuant to Section 286.0105, *Florida Statutes*, the City hereby advises the public that: if a person decides to appeal any decision made by this board 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 insure 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 allowed by law. This agenda is posted on the Municipal Bulletin Board and at the Central Brevard Library and Reference Center in Cocoa for public review.

File #: 18-477, **Version:** 1

DIAMOND SQUARE REDEVELOPMENT AGENCY AGENDA ITEM

Memo Date: September 26, 2018
Agenda Date: October 15, 2018
Prepared By: Charlene Neuterman, Redevelopment Program Manager
Through: Karen D. Hamilton, Community Services Director
Requested Action:
Approve the Minutes for the Regular Meeting of September 17, 2018, as written or with amendments.

BACKGROUND:

The Diamond Square CRA approves the minutes for all of its meetings at the beginning of such meetings.

BUDGETARY IMPACT:

PREVIOUS ACTION:

RECOMMENDED MOTION:

Approve the Minutes for the Regular Meeting of September 17, 2018, as written or with amendments.

JOURNAL
CITY OF COCOA
DIAMOND SQUARE REDEVELOPMENT AGENCY
REGULAR MEETING
SEPTEMBER 17, 2018

A Regular Meeting of the Diamond Square Redevelopment Agency Board was held on September 17, 2018 at City Hall, 65 Stone Street, Cocoa, FL, as publicly noticed.

I. CALL TO ORDER:

Chairwoman Moore called the meeting to order at 6:01 pm.

ROLL CALL:

Tracy Moore	Chairwoman
Delores Martin	Vice Chairperson
Larry Robinson	Agency member
Jewel Collins	Agency member
Edward Jones	Agency member
Sylvia Thomas	Agency member
Joseph Colombo	Agency counsel
Clarence Whipple Jr.	Council Liaison

PRESENT:

Tracy Moore	Chairwoman
Larry Robinson	Agency member
Jewel Collins	Agency member
Sylvia Thomas	Agency member
Joseph Colombo	Agency counsel
Clarence Whipple Jr.	Council Liaison
Torri Edwards	Recording Secretary

ABSENT:

Delores Martin	Vice Chairperson
Edward Jones	Agency member

STAFF PRESENT:
Charlene Neuterman, Redevelopment Program Manager.

Chairwoman Moore provided the invocation and led the assembly in the Pledge of Allegiance to the Flag of the United States of America.

II. APPROVAL OF AGENDA AND MINUTES:

AGENDA: Regular Meeting of September 17, 2018

* **MOTION by Agency member Collins; SECONDED by Agency member Thomas to approve the agenda with amendments for the Regular Meeting of September 17, 2018.**

AYES: Moore, Robinson, Collins, Thomas

MOTION CARRIED (4-0)

MINUTES: Minutes of the Regular Meeting of August 20, 2018

* **MOTION by Agency member Collins; SECONDED by Agency member Robinson to approve the minutes of the Regular meeting of August 20, 2018.**

AYES: Moore, Robinson, Collins, Thomas

MOTION CARRIED (4-0)

III. **DELEGATIONS:**
NONE

IV. **PRESENTATIONS:**
NONE

V. **ACTION ITEMS:**
1. Approve a Budget Adjustment for Additional Funds to Cover Legal Services Through End or FY 2018:

* **MOTION by Agency member Thomas; SECONDED by Agency member Robinson to approve a budget adjustment to increase the funds in the Legal Services line item; Approve a change order in the amount of $500 to PO# 71413 to add funds to the purchase order to cover additional Legal Services for the Diamond Square Redevelopment Agency.**

AYES: Moore, Robinson, Collins, Thomas

MOTION CARRIED (4-0)

2. Approve Professional Services Contract with the Alliance for Neighborhood Restoration for the Diamond Square Grant Initiatives Project (RFP# P-19-01-COC):

* **MOTION by Agency member Robinson; SECONDED by Agency member Collins to award the Diamond Square Initiative Project (RFP P-19-01-COC) to the Alliance for Neighborhood Restoration for Fiscal Year 2019, effective October 1, 2018 through September 30, 2019 and approve the Agreement in the amount of $20,000, payable in the four (4) quarterly installments, upon Council approval of the Fiscal Year 2019 Budget.**

AYES: Moore, Robinson, Collins, Thomas

MOTION CARRIED (4-0)

VI. UPDATES AND STAFF REPORTS:

1. DS CRA Project Updates:

Ms. Neuterman announced The Dr. Joe Lee Smith Community Center will be a similar design to the Walter Butler Community Center in Port St. John. They are close to 40% design plans and will be going out for RFQ in October/November. Ms. Neuterman indicated that there will not be a formal tour of the Walter Butler Community Center in Port St. John but members are able to tour on their own during normal business hours. Member Collins indicated that she recently attended an event at the Walter Butler Community Center and that it is a very nice facility and had a large meeting area.

VII. NEXT MEETING DATE:

The next meeting of the Diamond Square Redevelopment Agency will be a Regular Meeting to be held on October 15, 2018 at 6:00 pm at City Hall, 65 Stone Street.

IX. ADJOURNMENT:

* **MOTION by Agency member Collins; SECONDED by Agency member Thomas to adjourn the Regular Meeting of September 17, 2018.**

AYES: Moore, Robinson, Collins, Thomas

MOTION CARRIED (4-0)

MEETING WAS ADJOURNED AT 6:55 pm

_____

Tracy Moore, Chairwoman

Respectfully Submitted,

_____

Torri Edwards, Recording Secretary

File #: 18-499, **Version:** 1

DIAMOND SQUARE REDEVELOPMENT AGENCY AGENDA ITEM

Memo Date: October 1, 2018
Agenda Date: October 15, 2018
Prepared By: Charlene Neuterman, Redevelopment Program Manager
Through: Karen D. Hamilton, Community Services Director
Requested Action:
Approve a Development Agreement between the Diamond Square CRA and Habitat for Humanity of Brevard County, Inc. to construct six (6) new single-family housing units for female veterans at 430, 450, 470, 490, 510 and 530 Whaley Street. Approve a Budget Transfer to move the funds from Infrastructure to Contract Services.

BACKGROUND:

At the Diamond Square Community Redevelopment Agency (Agency) Board Meeting held on May 19, 2008 the Board voted to approve a Letter of Intent for the purchase of the old Skyview Trailer Park property located along Whaley and Bernard Street and also authorized staff to negotiate a Sales Contract with the owner/owners. Subsequently, at the meeting held on June 16, 2008 the Board approved the purchase of the property which was completed on July 18, 2008. On August 8, 2014 the Diamond Square Subdivision was recorded with the Brevard County Clerk of Courts. Contained in the Subdivision are six (6) lots, specifically for single-family homes, whose addresses are 430, 450, 470, 490, 510, and 530 Whaley Street.

On June 20, 2016, staff presented to the Board an agenda item to seek a development partnership for the construction of the Agency's six (6) lots on Whaley Street as part of the City of Cocoa's Veterans' Homeownership Initiative. This initiative included future donation of the lots on Whaley Street. Conceptually, the board agreed with the project and staff proceeded with finding a development partner for this project.

During the June 25, 2018 Agency meeting, the board provided staff the FY2018-2019 budget priorities, which included the Veterans' Homeownership Initiative Project, specifically for female veterans, with Habitat for Humanity of Brevard County, Inc. (Habitat). Habitat requested the Agency donate the six (6) lots on Whaley Street and provide $60,000 in Agency funds at $10,000 per lot.

The attached Development Agreement with Habitat memorializes the terms and conditions of the donation of the six (6) parcels on Whaley Street (430, 450, 470, 490, 510 and 530 Whaley Street) and the $60,000 for construction costs. As part of the agreement, the Developer agrees to design and construct six (6) new single-family housing units that will be available for sale to qualified low- and very low-income female veterans.

Guidelines of the Agreement

A) Single-family development

1) The single-family units shall have a minimum living area of 1,200 square feet and a minimum of 2 bedrooms, 1.5 baths, 1 car garage. The exterior shall be stucco and the Developer shall incorporate unique design enhancements that complement the pond behind the units, which include: a back porch, stucco band around the front window, door and garage door; decorative columns in the front of the house; and a small decorative railing on the front porch.

2) The units shall be made available by the Developer for purchase to qualified low- and very- low income female veterans. Income certification shall be conducted in accordance with the U.S. Department of Housing & Urban Development (HUD) guidelines.

3) The single-family units shall be constructed with a front setback of no less than 25 feet from property line, rear setback of no less than 15 feet, and side setbacks shall be no less than eight (8) feet.

4) Subject to funding availability, the City may assist the buyers with down payment assistance. Developer agrees to construct in accordance with the City's Homebuyer Policies. The Developer shall require each homebuyer to contribute a minimum of $500 - $750 of their own funds towards the purchase of the unit, depending upon their income level and if City down payment assistance is provided.

b) Timeline for improvements

Developer shall obtain a building permits and begin construction within 12 months of Developer acquiring the Property. The Project shall be completed within 24 months of Developer's acquisition of the Property. Should the Developer fail to meet the 12 or 24 month time period, the Agency reserves the right to terminate this Agreement, without penalty to the Agency, by filing a notice of termination in the official public records of Brevard County, Florida. The Developer does have the option to request an extension of time, citing delays and providing for a revised timeline.

Upon execution of the Agreement, the Diamond Square Redevelopment Agency will transfer title of the six (6) parcels to Habitat for Humanity and will provide $60,000 towards the project. The funds are currently budgeted in the Infrastructure Account but will need to be transferred to the Contract Services line item.

Staff requests Agency approval of the Development Agreement between The Diamond Square CRA and Habitat for Humanity of Brevard County, Inc. Staff also requests approval to transfer funds from Infrastructure to Contract Services.

BUDGETARY IMPACT:

Budgeted Yes

If not budgeted, is amendment/transfer attached? Yes

Amount Requested	$ (60,000) CS19WV
Account Number	111-3230-559-63-00
Account Name	Infrastructure

Amount Requested	$ 60,000 CS19WV
Account Number	111-3230-559-34-00
Account Name	Contract Services

Source of Funds: Diamond Square FY2019 Budget

PREVIOUS ACTION:

During the June 25, 2018 Agency meeting, the board provided staff the FY2018-2019 budget priorities, which included the Veterans' Homeownership Initiative Project, specifically for female veterans, with Habitat for Humanity of Brevard County, Inc. (Habitat).

RECOMMENDED MOTION:

Approve a Development Agreement between the Diamond Square CRA and Habitat for Humanity of Brevard County, Inc. to construct six (6) new single-family housing units for female veterans at 430, 450, 470, 490, 510 and 530 Whaley Street. Approve a Budget Transfer to move the funds from Infrastructure to Contract Services.

City of Cocoa Budget Adjustment Form FY 2019 - 6

SELECT ADJUSTMENT TYPE: BUDGET TRANSFER | REQUESTING DEPARTMENT #: 111-3230 | DATE PREPARED: 10/01/18

'FROM' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
($ 60,000)	111-3230-559.63-00	CS19WV	Infrastructure	$ 107,488	$ 107,488	$ 47,488	$ 32,200
$ 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
($ 60,000)	TOTAL						

'TO' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 60,000	111-3230-559.34-00	CS19WV	Contract Services	$ 6,000	$ 6,000	$ 66,000	$ 66,000
$ 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
$ 60,000	TOTAL						

REASON/JUSTIFICATION FOR ADJUSTMENT:

The funds for the Womens Veteran's Housing Program were budgeted in Infrastructure. Since this is a contract between Diamond Square CRA and Habitat for Humanity, the funds should be transferred to the Contract Services line. This is going before the Diamond Square CRA Board on October 15, 2018. DS Agenda #18-499

CITY COUNCIL APPROVAL REQUIRED? *YES* ( ) *NO* (•) *DATE APPROVED:* _____ *RESOLUTION #:* _____

City Council approval is needed for all transfers greater than $50,000 and transfers between Departments / Funds. Attach copy of agenda item and City Clerk's Journal noting approval.

10/1/18 Charlene Neuterman Digitally signed by Charlene Neuterman Date: 2018.10.01 14:05:39 -04'00'	10/2/18 Lea Taylor Digitally signed by Lea Taylor Date: 2018.10.02 13:58:11 -04'00'	
Date Requestor's Signature	Date Finance Approval Signature	Date Finance Director's Signature
10/1/18 Karen Hamilton Digitally signed by Karen Hamilton Date: 2018.10.01 14:44:47 -04'00'	10/2/18 Lora Howell Digitally signed by Lora Howell Date: 2018.10.02 16:16:42 -04'00'	
Date Department Director's Signature	Date Deputy Fin. Director's Signature	Date City Manager's Signature

FINANCE USE ONLY:

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

Prepared by and return to:
Joseph G. Colombo, Esq.
Mommers & Colombo
2020 W. Eau Gallie Blvd., Suite 106
Melbourne, FL 32935

HABITAT FOR HUMANITY OF BREVARD COUNTY, INC.
430, 450, 470, 490, 510, AND 530 WHALEY STREET
DEVELOPMENT AGREEMENT

THIS AGREEMENT made and entered into as of this **15th** day of **October**, **2018**, by and between **HABITAT FOR HUMANITY OF BREVARD COUNTY, INC.**, a Florida corporation, of 4515 Babcock Street, Palm Bay, FL 32905, herein referred to as "Developer" and the **DIAMOND SQUARE COMMUNITY REDEVELOPMENT AGENCY**, a Florida Community Redevelopment Agency formed pursuant to Section 163.330 et seq., Florida Statutes, whose address is 65 Stone Street, Cocoa, FL 32922, herein referred to as "AGENCY".

RECITALS

WHEREAS, Developer desires to redevelop certain property located within the City of Cocoa and generally located at **430, 450, 470, 490, 510, AND 530 Whaley Street** in Cocoa, Florida, with Tax Parcel IDs 24-36-33-58-*-1; 24-36-33-58-*-2; 24-36-33-58-*-3; 24-36-33-58-*-4; 24-36-33-58-*-5; and 24-36-33-58-*-6 respectively, and being more particularly described on **Exhibit "A"**, attached hereto and incorporated by this reference (the **"Property"**); and

WHEREAS, Developer desires to design, permit and construct six (6) single-family homes as depicted in the floor plan attached hereto as **Exhibit "B"** and incorporated herein by reference, as the same may be amended from time to time by mutual written agreement of the parties hereto (the "Project"); and

WHEREAS, the Developer needs certain other assistance as described herein to bring the Project to fruition; and

WHEREAS, Developer and Agency desire to memorialize their understandings and agreement regarding their respective interests, expectations, and intentions regarding the aforementioned Project as set forth in this Agreement.

NOW THEREFORE in consideration of the terms and conditions set forth in this Agreement, and other good and valuable consideration, the receipt of which is hereby acknowledged by the parties, the Agency and Developer agree to the following:

I. Incorporation of Recitals.

The foregoing recitals are true and correct and are hereby fully incorporated herein by this reference as a material part of this Agreement.

II. Project General Requirements and Conditions.

In consideration of the mutual promises and consideration set forth in this Agreement, Developer agrees to the development of the Property as described below. The Developer will design and construct six (6) new single-family units ("units") for sale to qualified low- and very- low income female veterans. Developer agrees to permit and develop the Project under the terms and conditions of this Agreement and the City Code. The Project shall be designed and implemented as follows:

A) Single-family development

1) The single-family units shall have a minimum living area of 1,200 square feet and a minimum of 2 bedrooms, 1.5 baths, 1 car garage. The exterior shall be stucco and the Developer shall incorporate unique design enhancements that complement the pond behind the units, which include: a back porch, stucco band around the front window, door and garage door; decorative columns in the front of the house; and a small decorative railing on the front porch.

2) The units shall be made available by the Developer for purchase to qualified low- and very- low income female veterans. Income certification shall be conducted in accordance with the U.S. Department of Housing & Urban Development (HUD) guidelines.

3) The single-family units shall be constructed with a front setback of no less than 25 feet from property line, rear setback of no less than 15 feet, and side setbacks shall be no less than eight (8) feet.

4) Subject to funding availability, the City may assist the buyers with down payment assistance. Developer agrees to construct in accordance with the City's Homebuyer Policies. The Developer shall require each homebuyer to contribute a minimum of $500 - $750 of their own funds towards the purchase of the unit, depending upon their income level and if City down payment assistance is provided.

b) Timeline for improvements

Developer shall obtain a building permits and begin construction within 12 months of Developer acquiring the Property. The Project shall be completed within 24 months of Developer's acquisition of the Property. Should the Developer fail to meet the 12 or 24

month time period, the Agency reserves the right to terminate this Agreement, without penalty to the Agency, by filing a notice of termination in the official public records of Brevard County, Florida. The Developer does have the option to request an extension of time, citing delays and providing for a revised timeline. If the Agreement is terminated pursuant to this paragraph, Developer shall lose all rights hereunder.

III. Developer's Initial Obligations and Conditions.

a) Upon the Effective Date of this Agreement, Developer agrees to promptly perform, at its expense, the following:

(i) Use all reasonable efforts to secure all necessary governmental and regulatory permits to complete the Project. Developer shall provide the Agency written progress reports once a Notice to Proceed is Issued.

(ii) Commence the design, engineering, permitting, and construction of the Project, subject to the Agency's approval of the house design.

b) Notwithstanding any contrary provisions of this Agreement, Developer's obligations hereunder shall be subject to and contingent upon:

(i) Developer's receipt of all necessary governmental licenses, permits, consents and approvals for the Project. If Developer is unable to obtain any such license, permit or approval, Developer shall have the right to terminate this Agreement by giving written notice to the Agency to such effect as soon as Developer is aware of Developer's inability to obtain the permit.

(ii) Developer's receipt of a commitment for such financing or funding as Developer deems necessary or desirable to complete the Project. If Developer cannot obtain a commitment for such financing or funding, Developer shall have the right, in its sole discretion, to elect to: a) terminate this Agreement or b) modify the Site Plan with the written approval of the Agency, provided such written approval shall not be unreasonably withheld or delayed.

c) Developer shall include the Agency in all promotions of the project including providing signage at the site of the Agency's support.

d) Developer shall seek out and qualify female veterans.

e) Developer shall provide the following in-kind donations for all six (6) homes:

- Appliances
- Storm panels
- Other contract donations from Habitat International

f) Developer shall actively seek other community and church partnership donations for the homes.

IV. Agency's Initial Obligations.

The Agency must:

a) Within 45 days of execution of this Agreement, the Agency will transfer title of 430, 450, 470, 490, 510, and 530 Whaley Street to the Developer.

b) The Agency shall provide $60,000 in funds towards the project.

V. City's Initial Obligations.

The Agency shall request the City:

a) Expeditiously process all development related applications and building permits. In connection therewith, the City shall waive one hundred percent (100%) of all City levied building permit fees to the extent permitted by applicable law.

b) To the extent permitted by law, lend support to Developer for the approval of any other permit required by other governmental entities.

c) Subject to funding availability, provide federal or state housing funds to an income eligible family for down payment and closing cost assistance assuming the Project is completed within the 24 month timeframe provided in Section II (B) herein. The term "completion" is hereby defined as: when a certificate of occupancy is received and the unit is occupied.

VI. Third Party Beneficiary

This Agreement shall not be construed to provide rights to any third-party beneficiary unless agreed to by the parties in writing.

VII. Cooperation and Further Assurances.

Developer and the Agency shall cooperate fully with each other to effectuate the terms, conditions and intentions of this Agreement. Further, each party agrees to adjust, initial, re-execute and re-deliver any and all documents subject to this Agreement if deemed necessary or desirable by one or the other of the parties.

VIII. Authority and Assignment.

Each party hereby represents and warrants to the other that they have full power and authority to enter into this Agreement. Developer also represents that it has or, prior to commencement of any site work, will hold interest in the Property, and that the development of the Project on the Property is or will be permitted under the terms of this Agreement. If the terms of this Agreement, as it may be amended, do not allow for development of the Project as contemplated herein, this Agreement and any City permits issued in furtherance hereof shall be automatically terminated and nullified. The Agency also represents that all requirements and procedures, including public hearings, have been properly conducted so that the execution hereof by the Agency shall constitute the final approval of this Agreement by the Agency.

IV. Notices.

Any notice required or allowed to be delivered hereunder shall be in writing and shall be deemed to be delivered when: (a) hand delivered to the official hereinafter designated, or (b) one day after deposit with a nationally recognized overnight courier service, e.g. Federal Express, Purolator, Airborne, Express Mail etc., or (c) by facsimile delivery, addressed to a party at the other address as specified below or from time to time by written notice to the other party delivered in accordance herewith:

Developer:
Ms. M.E. Kelly, Executive Director
Habitat for Humanity of Brevard County, Inc.
4515 Babcock Street
Palm Bay, FL 32905
Phone: 321- 728-4009
Fax: 321-728-4009

Agency:
City of Cocoa
Diamond Square Redevelopment Agency
Mrs. Charlene Neuterman, Redevelopment Program Manager
65 Stone Street
Cocoa, FL 32922
Phone: 321-433-8509
Fax: 321-433-8543

With copy to: Joseph G. Colombo, Esq.
Mommers & Colombo
2020 W. Eau Gallie Blvd., Suite 106
Melbourne, FL 32935
Telephone (321) 751-1000

X. Defaults.

Failure by either party to perform each and every one of its obligations hereunder shall constitute a default, entitling the non-defaulting party to pursue whatever remedies are available to it under Florida law or equity including, without limitation, an action for injunctive relief. Except for the City's right to terminate this Agreement under section II (b) herein, prior to any party filing any action as a result of a default under this Agreement, the non-defaulting party shall first provide the defaulting party with written notice of said default. Upon receipt of said notice, the defaulting party shall be provided a thirty (30) day opportunity in which to cure the default to the reasonable satisfaction of the non-defaulting party prior to filing said action; provided, however, that if such failure cannot reasonably be cured within 30 days, such period shall be extended for such additional time as is reasonably necessary to cure such default so long as such party commences such cure within such 30-day period and diligently pursues it to completion. The prevailing party in any litigation arising under this Agreement shall be entitled to recover its reasonable attorney's fees and costs, whether incurred at trial or appeal.

XI. Successors and Assigns/Agreement Running with the Land.

This Agreement is binding upon, and will inure to the benefit of, the parties and their respective successors and permitted assigns. The City does not consent to the assignment of this Agreement to any other party. The provisions of this Agreement and all approved plans shall run with the land and shall be administered in a manner consistent with Florida Statutes and local law.

XII. Applicable Law & Venue.

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any legal action under this Agreement shall be in Eighteenth Judicial District, Brevard County for state court actions, and in the Middle District of Florida, Orlando Division for federal court actions.

XIII. Amendments.

This Agreement shall not be modified or amended except by written agreement duly executed by both parties hereto.

XIV. Entire Agreement.

This Agreement supersedes any other agreement, oral or written, and contains the entire agreement between the Agency and Developer as to the subject matter hereof.

XV. Severability.

If any provision of this Agreement shall be held to be invalid or unenforceable to any extent by a court of competent jurisdiction, the same shall not affect in any respect the validity or enforceability of the remainder of this Agreement.

XVI. Relationship of the Parties.

The relationship of the parties to this Agreement is contractual and Developer is an independent contractor and not an agent of the Agency or the City. 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.

XVII. 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 City'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 ($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 hundred thousand dollars ($300,000.00).

XVIII. City's Police Power.

The City hereby reserves all police powers granted to the City by law. In no way shall this Agreement be construed as the City bargaining away or surrendering its police powers.

IXX. Interpretation.

The parties hereby agree and acknowledge that they have both participated equally in the drafting of 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.

XX. Permits.

The failure of this Agreement to address any particular City, county, state, and federal permit, condition, term, or restriction shall not relieve Developer or the Agency of the necessity of complying with the law governing said permitting requirements, conditions, term, or restriction.

XXI. Counterparts.

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.

XXII. Effective Date.

Effective Date shall mean the date this Agreement is approved and executed by all parties.

XXIII. Hold Harmless.

The Developer agrees to hold the Agency harmless for any liability for damage or claims for damage for personal injury, including death, as well as claims for property damage that may arise from Developer or Developer's agents operating under this Agreement. This hold harmless shall not apply if the injury or death is solely attributable by a court to the Agency.

XXIV. Time is of the Essence.

Time is hereby declared of the essence as to the lawful performance of all duties and obligations set forth in this Agreement.

IN WITNESS WHEREOF, Developer and the City have executed this Agreement in form sufficient to bind them as of the day and year first above written.

***Witnesses*:** _____ **Print Name:** _____ **Print Name:**	**HABITAT FOR HUMANITY OF BREVARD COUNTY,INC., a Florida Corporation,** **By:** _____ **M.E. Kelly, Executive Director**

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this _____ day of October, 2018 by M.E. Kelly, Executive Director of Habitat for Humanity of Brevard County, Inc., who executed the foregoing instrument and acknowledged before me that he executed the same for the uses and purposes therein expressed and _____ who is personally known to me or who has produced _____ as identification and who did not take an oath.

(NOTARY SEAL)

_____
Notary Public Signature

_____
Typed or Printed Notary Name

Notary Public-State of Florida
Commission No.:
My commission expires:_____

***Witnesses*:** _____ **Print Name:** _____ **Print Name:**	**DIAMOND SQUARE REDEVELOPMENT AGENCY, a Florida Community Redevelopment Agency formed pursuant to Section 163.330 et seq., Florida Statutes** **By:** _____ **Tracy Moore, Chair**

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this ____ day of October, 2018 by Tracy Moore, Chairperson of the Diamond Square Redevelopment Agency, _____who is personally known to me or who has produced _____ as identification and who did not take an oath.

_____
(NOTARY SEAL) Notary Public Signature

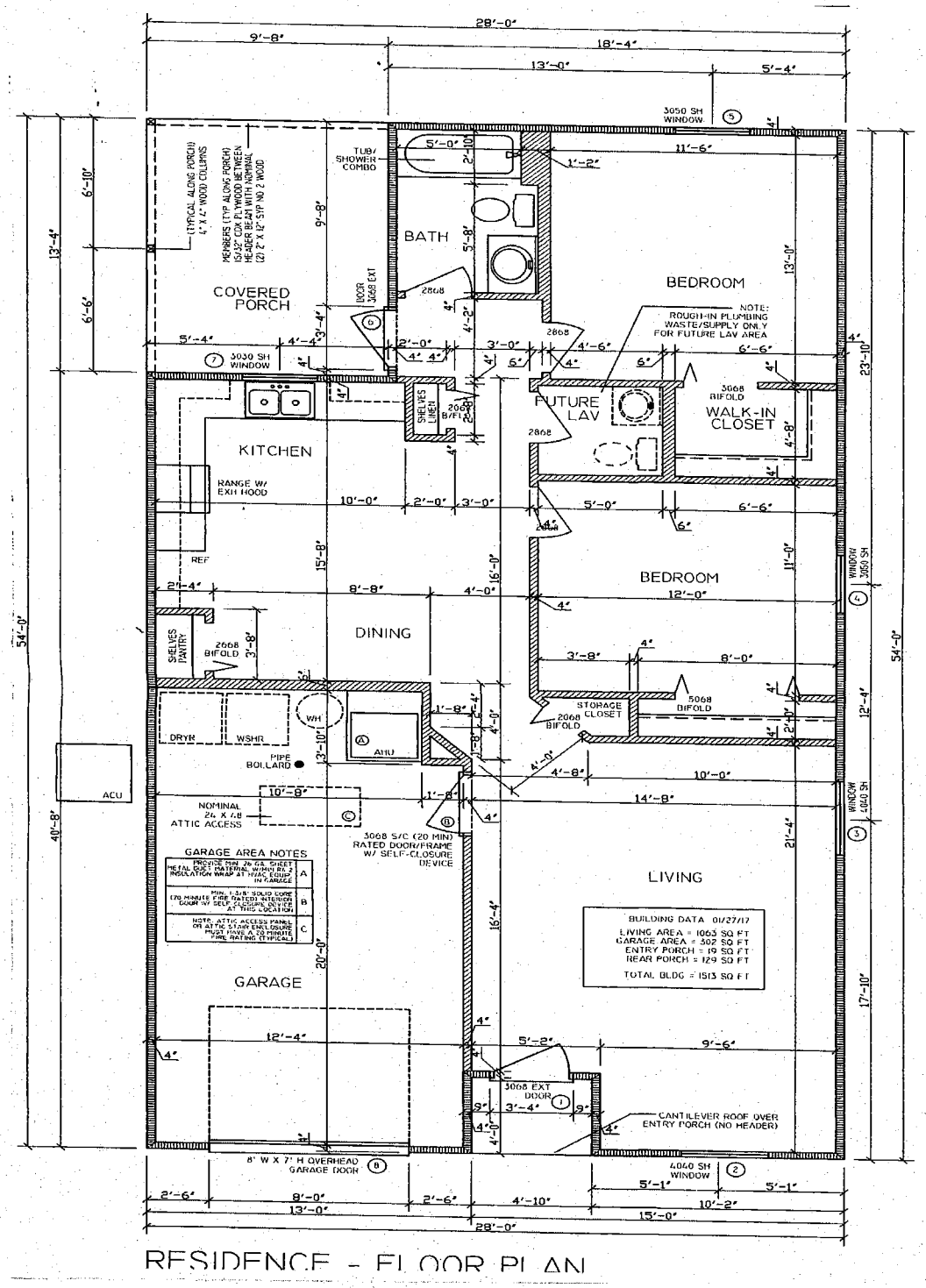
_____
Typed or Printed Notary Name
Notary Public-State of Florida
Commission No.:
My commission expires:_____

EXHIBIT "A"

[LEGAL DESCRIPTION]

A PARCEL OF LAND LYING IN SECTION 33, TOWNSHIP 24 SOUTH, RANGE 36 EAST, CITY OF COCOA, BREVARD COUNTY, FLORIDA, BEING THOSE SAME LANDS AS DESCRIBED IN O.R. 5878, PAGE 8496 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCE AT A NAIL & DISK (STAMPED "PACKARD / LS #3867") WHICH MARKS THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 33, TOWNSHIP 24 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, AND RUN N.89°44'32"E., ALONG THE SOUTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE 495.00 FEET; THENCE DEPARTING SAID SOUTH LINE, RUN N.00°12'15"E., ALONG THE WEST LINE OF "MYRTLE PARK SUBDIVISION", A DISTANCE OF 656.78 FEET TO THE NORTHWEST CORNER OF SAID SUBDIVISION, THE POINT OF BEGINNING; THENCE S.89°47'45"E., ALONG THE NORTH LINE OF SAID SUBDIVISION AND ALONG THE CENTERLINE OF WHALEY STREET, A DISTANCE OF 359.14 FEET TO THE NORTHEAST CORNER OF SAID "MYRTLE PARK SUBDIVISION"; THENCE DEPARTING SAID NORTH LINE, RUN N.00°12'15"E., A DISTANCE OF 330.00 FEET; THENCE N.89°47'45"W., A DISTANCE OF 359.14 FEET; THENCE S.00°12'15"W., A DISTANCE OF 330.00 FEET TO THE POINT OF BEGINNING; CONTAINING 2.721 ACRES.

EXHIBIT "B"
[FLOOR PLAN]



File #: 18-500, **Version:** 1

DIAMOND SQUARE REDEVELOPMENT AGENCY AGENDA ITEM

Memo Date: October 1, 2018
Agenda Date: October 15, 2018
Prepared By: Charlene Neuterman, Redevelopment Program Manager
Through: Karen D. Hamilton, Community Services Director
Requested Action:
Informational - Project Updates

BACKGROUND:

Project Updates - Diamond Square CRA

- Stone Street is substantially complete and as of 10/1/18, the contractor is completing final color asphalt and striping as well as punch list items. The date for the ribbon cutting has not been set as of 10/1/18.
- The Community Garden did not get completed in Fiscal Year 2018 and funds allocated will be moved to the FY2019 budget when we true-up the numbers in November. A work day will be scheduled in early November for volunteers to work on the site. Staff is preparing grant applications for submittal to Lowe's and Home Depot.
- Dr. Joe Lee Smith Community Center has reached 40% plan phase and the City is working to release a Request for Proposals (RFP) for the Design-Build Process. This is expected to happen by mid-November, with a contractor selected within 60 days of the release of the RFP. Staff has 40% plans for review during the meeting.

BUDGETARY IMPACT:

None

PREVIOUS ACTION:

None

RECOMMENDED MOTION:

Informational - Project Updates