City of Cocoa

65 Stone Street
Cocoa, FL 32922

Meeting Agenda - Final

Tuesday, August 23, 2022

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 22-491 Approve the Agenda for the Regular meeting of August 23, 2022, as presented or with amendments.

Attachments: 08-23-2022 Short Agenda ADA.pdf

MINUTES:

II.2(b) 22-468 Approve the Minutes of the Budget Priorities Workshop of July 8, 2022 as written or with amendments.

Attachments: 07-08-2022 Final Draft.pdf

Exhibit A - FY23 Budget Priorities Workshop Presentation.pdf

III. AWARDS AND PRESENTATIONS:

III.1 22-444 Presentation by Historic Cocoa Village Main Street.

III.2 22-507 Presentation from the Boys and Girls Club of Central Florida and Open-Door Concierge Services -The Young Kings, on the “Summer for the Kids”, State and Local Fiscal Recovery Funds - Grant Award/Program.

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 22-435 Approval of the Municipal Services Agreement with Historic Cocoa Village Main Street.

Attachments: Second Addendum to Municipal Services Agmt. (HCVMS).pdf
Addendum to Municipal Services Agreement.pdf
07_24_19 Municipal Services Agreement (Recorded).pdf
Historic Cocoa Village Main Street - Municipal Services Agreement and lease 2(

V.2 22-464 To Approve a Resolution Waiving the Competitive Bidding Process for the Construction of the Influent Pump Station (IPS) Rehabilitation Project at the Jerry Sellers Water Reclamation Facility; To Authorize the City Manager to Execute Amendment #1 to the Master Services Agreement with Garney Companies, Inc., and Petticoat-Schmitt Civil Contractors, Inc., and Amendment #3 to the Master Services Agreement with Wharton-Smith, Inc., for Construction Manager at Risk (CMAR) Services for Specified Water and Wastewater System Projects.

Attachments: Resolution Waiving Competitive Bidding.doc
Garney Master Services Agreement.pdf
Petticoat Master Services Agreement.pdf
Wharton Master Services Agreement.pdf
Amendment_1_RFQ-19-04A_Garney_Partially_Exe.pdf
Amendment_1_RFQ-19-04A_Petticoat_Partial.pdf
Amendment_3- RFQ19-04A-WSI-Partial.pdf

V.3 22-477 Approve policy for Workers' Compensation Specific Excess Insurance with Safety National Casualty Corporation for the period of October 1, 2022 through September 30, 2023, with an estimated annual premium of $228,755, pending approval of the FY2023 budget.

Attachments: City of Cocoa FY23 WC Excess Quote.pdf
City of Cocoa WC Excess Policy History.pdf

V.4 22-489 Council approval for the City to apply for FDEP Resilient Florida Grant funding in the amount of $1.75M with a 50% match for the construction of the Dixon Blvd. at Indian River Drive Water Quality and Resiliency Project estimated at a total of $3.5M.

Attachments: Internal Grant Application - Resilient Florida Grant for Implementation Phase of

V.5 22-492 To Award Bid B-22-14-COC, Filter Belt Press Programmable Logic Control (PLC) Upgrades (Project WS17FC) to C.C. Control Corporation of West Palm Beach, FL, in the Amount of $142,700; Approve a Contingency Resolution Authorizing the City Manager to Approve Change Orders in an Amount Not to Exceed $21,405 (15% of the contract amount), for a Total Project Cost of $164,105; To Authorize the City Manager to Execute the Contract.

Attachments: B-22-14-COC PLC Upgrade ITB 7-27-2022.pdf
SW PLC Bid Tab.pdf
Notification of Intent to Award.pdf
COI.pdf
E-Verify.pdf
W9.pdf
Agenda 22-492 Contingecy Resolution 2022-XXX.doc
B-22-14-COC Construction Contract Partially Executed.pdf

V.6 22-494 Approval for the City to apply for Save Our Indian River Lagoon (SOIRL) tax cost-share funds for an estimated amount of $24,500 to install floating wetlands at the N Fiske Blvd. Stormwater Pond.

Attachments: Grant - SOIRL N. Fiske Floating Wetlands Agenda Date 8-23-22.pdf

V.7 22-497 Council approval for the City to apply for the Resilient Florida Grant funds in the amount of $100,000 for the Cocoa Coastline Stormwater Nutrient Removal Planning Study.

Attachments: Internal Grant Application - Cocoa's Coastline Stormwater Nutrient Removal Stu

V.8 22-509 Approval of the requested Pay Plan changes for Fiscal Year 2022.

Attachments: FY 2022 Pay Plan revised with PIC.pdf

MULTI-YEAR CONTRACTS:

V.9(b) 22-486 Approve a multi-year contract for banking services with Truist Bank (Formerly Suntrust Bank) piggy-backing off the Marion County Clerk of Circuit Court contract RFP12C-183 and authorize the City Manager to sign all the necessary documents. Further, if required by the bank, authorize the City Manager to approve a banking resolution with the advice of the City Attorney and authorize the Mayor to execute said resolution, if necessary.

Attachments: Marion CO Truist Agreement thru August 2025.pdf
Partially Executed Piggyback Agreement08-22.pdf
City of Cocoa Banking Extension Contract eff Sept 2022.pdf
City of Cocoa Treasury Mgt Master 8 2022.docx
Proforma Operating Account 9-1-22.pdf
truist-treasury-terms-conditions 2022.pdf
SIGNED E-Verify Affidavit.pdf

VI. PUBLIC HEARINGS:

VII. COUNCIL BUSINESS:

VII.1 22-496 Seek Council approval on the addition of a requirement for compostable serving products for all food vendors at City events only.

Attachments: Revised - Food Vendor application 8-12-22.pdf

VII.2 22-503 Consideration of a Pre-Development Tree Mitigation Contribution Deferral Agreement for the Orchid Lake development, a 90-unit affordable, multifamily rental housing development proposed to be located on the southwest corner of Michigan Avenue and University Lane, which will defer and eliminate or reduce the Tree Mitigation Contribution required by the City Code for failure to provide tree replacements on site.

Attachments: Orchid Lake Pre-Development Tree Mitigation Deferral Agreement - 8-18-2022.

VIII.3 Consideration of a Pre-Development Tree Mitigation Contribution Deferral Agreement for BTGM, LLC, related to a 210,000 square-foot industrial manufacturing facility to be located on Grissom Parkway, which will defer and eliminate or reduce the Tree Mitigation Contribution required by the City Code for failure to provide tree replacements on site. (City Manager)

VIII. CITY BUSINESS:

VIII.1 22-485 Approve the Final Assessment Resolution 2022-078 for Stormwater Utility Services, Fiscal Year 2023.

Attachments:
- 2022-078 Final Stormwater Resolution.docx
- Affidavit - SW Notice.pdf
- Stormwater Ad Proof.pdf
- CERTIFICATE to non-ad valorem assessment roll.docx
- Stantec Final Report Stormwater.pdf

VIII.2 22-484 Approve the Final Assessment Resolution 2022-077 for Fire Protection, for Fiscal Year 2023.

Attachments:
- 2022-077 Final Fire Assessment Resolution 2022.docx
- CERTIFICATE to non-ad valorem assessment roll.docx
- Fire Assessment Ad Proof.pdf
- mem_fy23_cocoa_fire_20220725.pdf
- Affidavit Fire Notice.pdf

VIII.3 22-447 Approve Resolution 2022-085 revising the building permit fee schedule related to the issuance of building permits pursuant to the Florida Building Cocoa repealing Resolution 2021-058 in its entirety.

Attachments:
- Resolution 2022-085: (Modify building permit fee schedule).docx
- EXHIBIT A (Revised 8-2022).docx

VIII.4 22-500 Approve Resolution 2022-086 revising the building fire plan review & inspection fee schedule related to the issuance of building permits & fire inspections pursuant to the Florida Fire Prevention Code & repealing Resolution 2019-019 in its entirety.

Attachments:
- Resolution 2022-086: Adopting Fire Fees - Final.docx
- Exhibit A Fire Inspection and Plans Review Fees - Final.docx

VIII.5 22-505 Staff is seeking approval to reject all bids and rebid ITB B-22-15-COC Fiske Blvd. Roadway and Broadmoor Acres Drainage Improvements Project, FEMA Project Number 4337-428-R.

IX. INFORMATIONAL AGENDA:

IX.1 22-456 Council request to review the cumulative purchase approvals over $35,000 and under $50,000 for period 10/01/2021 to 7/31/2022.

Attachments:
- PO Monthly Report to City Council 10.01.21 thru 7.31.22.pdf

IX.2 22-458 Informational Item Only

Attachments:
- July 2022 Calls For Service By Incident Type.pdf

IX.3 22-478 Review of City of Cocoa and LIUNA Memorandum of Understanding regarding health insurance.

Attachments: LIUNA Local 630 Agreement 10_01_2021-09_30_2024.pdf
LIUNA MOU Article 15 Health and Welfare (7-27-22).pdf

IX.4 22-479 Review of the Memorandum of Understanding between the City of Cocoa and International Association of Firefighters Local 2416 to amend Article 28 Insurance regarding health insurance.

Attachments: IAFF Agreement (October 1, 2021-September 30, 2024).pdf
IAFF MOU Health Insurance (8-2-22).pdf

IX.5 22-480 FY 2022 Budget Adjustment Report

Attachments: Pd. 10 July - FY 2022 REVENUE Budget Tracking Worksheet.pdf
Pd. 10 July - FY 2022 EXPENSE Budget Tracking Worksheet.pdf

IX.6 22-481 In accordance with City Code, Section 2-74, at the beginning of each month during the fiscal year, the City Manager shall submit to City Council data showing the relation between the estimated and actual income and expenses to date.

Attachments: Budget Classification Report July 2022.pdf

IX.7 22-482 In accordance with the Financial Operations Manual (FOM) the City Manager shall submit to City Council in the form of an agenda item any 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.

Attachments: Change Order Authorizations 07-31-22.pdf

IX.8 22-510 Bi-Weekly Council Update Report provided by Department Directors.

Attachments: Council bi-weekly report template-Final(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

However, the City is not responsible for technical difficulties that may occur while attempting to view or listen to the meeting on the internet.

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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.
Public debate by individual speakers from the audience on public hearing items shall be limited to three (3) minutes. Applicants or representatives of recognized groups with 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.

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. Matters may also be raised by the Council, City Manager or City Attorney under reports and acted upon by the City Council.

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 #:	22-491	**Version:**	1	**Name:**	
Type:	Agenda			**Status:**	Agenda Ready
File created:	8/11/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Approve the Agenda for the Regular meeting of August 23, 2022, as presented or with amendments.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	08-23-2022 Short Agenda ADA.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 11, 2022
Agenda Date: August 23, 2022
Prepared By: Carie Shealy, City Clerk
Through:
Requested Action:
Approve the Agenda for the Regular meeting of August 23, 2022, 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 August 23, 2022, as presented or with amendments.

Agenda
City of Cocoa
Regular Meeting of The City Council

Date: August 23, 2022
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 August 23, 2022. (22-491)

2. Minutes: (a) Minutes of the Budget Priorities Workshop of July 8, 2022. (22-468)

III. Awards and Presentations:

1. Presentation by Historic Cocoa Village Main Street. (22-444). (HCVMA)

2. Presentation from the Boys and Girls Club of Central Florida and Open-Door Concierge Services -The Young Kings, on the "Summer for the Kids", State and Local Fiscal Recovery Funds - Grant Award/Program. (22-507). (Finance Director)

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. Approval of the Municipal Services Agreement with Historic Cocoa Village Main Street. (22-435). (Asst. to the CM/PIO)

2. Approve a Resolution Waiving the Competitive Bidding Process for the Construction of the Influent Pump Station (IPS) Rehabilitation Project at the Jerry Sellers Water Reclamation Facility; To Authorize the City Manager to Execute Amendment #1 to the Master Services Agreement with Garney Companies, Inc., and Petticoat-Schmitt Civil Contractors, Inc., and Amendment #3 to the Master Services Agreement with Wharton-Smith, Inc., for Construction Manager at Risk (CMAR) Services for Specified Water and Wastewater System Projects. (22-464). (Utilities Director)

3. Approve policy for Workers' Compensation Specific Excess Insurance with Safety National Casualty Corporation for the period of October 1, 2022 through September 30, 2023, with an estimated annual premium of $228,755, pending approval of the FY2023 budget. (22-477). (Administrative Services Director)

4. Council approval for the City to apply for FDEP Resilient Florida Grant funding in the amount of $1.75M with a 50% match for the construction of the Dixon Blvd. at Indian River Drive Water Quality and Resiliency Project estimated at a total of $3.5M. (22-489). (Public Works Director)

5. Award Bid B-22-14-COC, Filter Belt Press Programmable Logic Control (PLC) Upgrades (Project WS17FC) to C.C. Control Corporation of West Palm Beach, FL, in the Amount of $142,700; Approve a Contingency Resolution Authorizing the City Manager to Approve Change Orders in an Amount Not to Exceed $21,405 (15% of the contract amount), for a Total Project Cost of $164,105; To Authorize the City Manager to Execute the Contract. (22-492). (Utilities Director)

6. Approval for the City to apply for Save Our Indian River Lagoon (SOIRL) tax cost-share funds for an estimated amount of $24,500 to install floating wetlands at the N Fiske Blvd. Stormwater Pond. (22-494). (Public Works Director)

7. Council approval for the City to apply for the Resilient Florida Grant funds in the amount of $100,000 for the Cocoa Coastline Stormwater Nutrient Removal Planning Study. (22-497). (Public Works Director)

8. Approval of requested changes to Pay Plan for Fiscal Year 2022. (22-509). (Administrative Services Director)

(B) Multi-Year Contracts:

9. Approve a multi-year contract for banking services with Truist Bank (Formerly SunTrust Bank) piggy-backing off the Marion County Clerk of Circuit Court contract RFP12C-183 and authorize the City Manager to sign all the necessary documents. Further, if required by the bank, authorize the City Manager to approve a banking resolution with the advice of the City Attorney and authorize the Mayor to execute said resolution, if necessary. (22-486). (Finance Director)

VI. Public Hearings:

None.

VII. Council Business:

1. Seek Council approval on the addition of a requirement for compostable serving products for all food vendors at City events only. (22-496). (Asst. to the CM/PIO)

2. Consideration of a Pre-Development Tree Mitigation Contribution Deferral Agreement for the Orchid Lake development, a 90-unit affordable, multifamily rental housing development proposed to be located on the southwest corner of Michigan Avenue and University Lane, which will defer and eliminate or reduce the Tree Mitigation Contribution required by the City Code for failure to provide tree replacements on site. (22-503). (City Manager)

3. Consideration of a Pre-Development Tree Mitigation Contribution Deferral Agreement for BTGM, LLC, related to a 210,000 square-foot industrial manufacturing facility to be located on Grissom Parkway, which will defer and eliminate or reduce the Tree Mitigation Contribution required by the City Code for failure to provide tree replacements on site. (22-502). (City Manager)

VIII. City Business:

1. Approve the Final Assessment Resolution 2022-078 for Stormwater Utility Services, Fiscal Year 2023 (22-485). (Finance Director)

2. Approve the Final Assessment Resolution 2022-077 for Fire Protection, for Fiscal Year 2023. (22-484). (Finance Director)

3. Approve Resolution 2022-085 revising the building permit fee schedule related to the issuance of building permits pursuant to the Florida Building Code repealing Resolution 2021-058 in its entirety. (22-447). (Community Services Director)

4. Approve Resolution 2022-086 revising the building fire plan review & inspection fee schedule related to the issuance of building permits & fire inspections pursuant to the Florida Fire Prevention Code & repealing Resolution 2019-019 in its entirety. (22-500). (Fire Chief)

5. Staff is seeking approval to reject all bids and rebid ITB B-22-15-COC Fiske Blvd. Roadway and Broadmoor Acres Drainage Improvements Project, FEMA Project Number 4337-428-R. (22-505). (City Manager)

Multi-Year Contracts:

None**.**

IX. Informational Agenda:

1. Cumulative purchase approvals over $35,000 and under $50,000 for period 10/01/2021 to 7/31/2022. (22-456). (Finance Director)

2. Calls for service provided by the Cocoa Fire Rescue Department for the month of July 2022. (22-458). (Fire Chief)

3. Review of City of Cocoa and LIUNA Memorandum of Understanding regarding health insurance. (22-478). (Administrative Services Director)

4. Review of the Memorandum of Understanding between the City of Cocoa and International Association of Firefighters Local 2416 to amend Article 28 Insurance regarding health insurance. (22-479). (Administrative Services Director)

5. FY 2022 Budget Adjustment Report. (22-480). (Finance Director)

6. Data showing the relation between the estimated and actual income and expenses to date. (22-481). (Finance Director)

7. 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. (22-482). (Finance Director)

8. Bi-Weekly Council Update Report. (22-510). (City Manager)

X. Reports:

- Advisory Boards and Committees
- City Manager & Administration
- City Attorney
- City Council

XI. Adjournment:

XII. Notice To The Public:

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(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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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.

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Legislation Details (With Text)

File #:	22-468	**Version:**	1	**Name:**	
Type:	Minutes			**Status:**	Minutes
File created:	8/5/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Approve the Minutes of the Budget Priorities Workshop of July 8, 2022 as written or with amendments.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	07-08-2022 Final Draft.pdf Exhibit A - FY23 Budget Priorities Workshop Presentation.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 5, 2022
Agenda Date: August 23, 2022
Prepared By: Monica Arsenault, Assistant City Clerk
Through:
Requested Action:
Approve the Minutes of the Budget Priorities Workshop of July 8, 2022 as written or with amendments.

BACKGROUND:

N/A

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

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

RECOMMENDED MOTION:

Approve the Minutes of the Budget Priorities Workshop of July 8, 2022 as written or with amendments.

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MINUTES
CITY OF COCOA
BUDGET PRIORITIES WORKSHOP

July 8, 2022

A Budget Priorities Workshop was held on Friday, July 8, 2022, 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 2:32 p.m.

Deputy Mayor Hearn provided the invocation and Councilmember Koss 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:

Tammy Gemmati, Administrative Services Director; Jack Walsh, Utilities Director; Charlene Neuterman, Community Services Director; Evander Collier, Police Chief; Pat Dovale, Police Commander; Jonathan Lamm, Fire Chief; Bryant Smith, Public Works Director; Rebecca Bowman, Finance Director; Rob Beach, Chief Technology Officer; Samantha Senger, Assistant to the City Manager/PIO; Lora Howell, Deputy Finance Director; and Angela Essing, Growth and Economic Development Director.

II. Meeting Topics:

1. Stantec Presentation

Ms. Kelly Westover introduced her colleagues from Stantec, Mr. Jeff Dykstra, Mr. Kevin Cook and Mr. Peter Napoli.

Mr. Napoli gave a presentation[1] on the City of Cocoa's Annual Financial Analysis. He discussed the foundations of the analysis as well as the General Fund analysis.

He reviewed key planning observations and considerations. This includes the objective, which is to evaluate sufficiency of revenues from property taxes and other sources to meet projected operating and capital costs.

The key observations are:

- Projection assumes current operating levels per Fiscal Year 2023 Recommended Budget
- CIP reflects an average annual spending of $2.3 million
- Continued plan of fire assessment rate increases of 3% each year

The key issue is that long term escalation of costs will outpace revenue growth.

Mr. Napoli shared the City of Cocoa's Fire Assessment calculation. An increase of 3% was discussed and the FY22 annual residential fire assessment fee rate survey for single family homes was shared.

Mr. Jeff Dykstra spoke on his portion of the presentation regarding the City's water and sewer sufficiency analysis. He shared key planning observations and considerations. The key issues are cost inflation (operating and capital) and the alignment of capital needs and execution.

Mr. Dykstra reviewed the City's sustainable financial management plan and the current approved plan with a 4% rate increase. Two scenarios were presented as well.

Ms. Kelly Westover talked about the City's stormwater forecast. She gave a brief background and noted that the annual revenue sufficiency analysis will update the assessment rate. This includes a 4-month O&M reserve. The FY22 plan included a 4.5% increase in FY23 and 4% indexing thereafter. The City has received grants which supplemented capital funding.

Ms. Westover talked about key planning observations and considerations. The key issues are that the Capital Plan is unsustainable beginning in FY27 and the aging infrastructure presents a key risk.

She shared the unsustainable stormwater forecast and the sustainable stormwater forecast with additional grant funding. Lastly, Ms. Westover gave a summary of the results.

2. Budget Overview

[1] Exhibit A: City of Cocoa's Annual Financial Analysis Presentation

City Manager Whitten spoke about the City's Charter requirements and talked about the process that the City is required to go through in order to present a balanced budget to the City Council.

City Manager Whitten highlighted the FY23 recommended budget as follows:

- No new programs, services or positions
- 3% salary increase for employees
- 9.2% health insurance increase
- 9-18% other insurances increase
- Unchanged property tax rate of 6.4532 mills
- 3% fire assessment increase
- 4% water/sewer utility rate increase
- 4.5% stormwater assessment increase
- 3% CPI increase in solid waste development, planning and zoning, building fees and fire inspection increases

Ms. Essing shared a comparison chart for development fees to show what other local cities are charging and what the City of Cocoa is proposing.

Deputy Mayor Hearn clarified that by increasing our fees this will keep the tax payers from having to pay for new development.

Ms. Neuterman shared a comparison chart for building fees to show what other local cities are charging and the increases the City is proposing.

Chief Lamm shared a comparison chart for fire inspection fees to show what other local cities are charging. Currently, the City of Cocoa does not charge anything other than a re-inspection fee. Staff is asking Council to consider implementing fees that are comparable to other cities in Brevard County.

Ms. Gemmati shared the City's medical plan history. She explained that historically the City has paid 100% for employee coverage and 50% of dependent/family coverage for medical, dental, and vision plans. Since the early 1990s this has been a practice. The City absorbed the rate increase of the Medical Plan in FY2016, FY2020 and FY2021. In FY2022 the City shared a 2.8% rate decrease. Employee premiums for dependent coverage have not increased since October 1, 2018. Additionally, Ms. Gemmati reviewed family monthly historical rates.

Ms. Bowman and City Manager Whitten provided the FY23 recommended budget and the FY23 new operating costs[2]. City Manager Whitten shared the recommended use of the FY23 unassigned balance to fund one-time needs. This includes annual street paving, P25 radios for the Police and Fire Departments, marked patrol vehicles, an Information Technology tricaster and server host, a gas

[2] The workshop paused for a five-minute break at 3:57pm and reconvened at 4:06pm

mask tester, gas masks, HVAC replacement, smoke ejector fans and assistance for Alliance for Neighborhood Restoration.

Ms. Bowman talked about remaining SLFRF, or ARPA funds. She shared potential project reallocation which could use the remaining funds. Some recommendations include a fire pumper truck, stormwater gradall, five police vehicles, fire training trailer, a stormwater dump truck and park cost overruns.

Chief Collier explained that there are issues with ordering due to backorders and processes so the sooner a decision can be made the sooner staff can get the ball moving.

Councilmember Koss asked for further clarification on some of the requested projects and items being presented.

Mr. Smith provided further details and updates on park costs and bids and noted that we are still in the design process.

* **Motion by Mayor Blake; Seconded by Councilmember Dyal to approve the use of the remaining SLFRF (ARPA) funds as recommended by staff.**

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

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

Motion passed (3-2)

City Manager Whitten shared Council priorities that were previously addressed and Council's budget requests broken down by each individual Councilmember for their District. Ultimately, Council's priorities that are funded in the recommended budget are:

- Museums
- Street paving
- Capital improvements within parks
- Additional funding for Upstart Cocoa
- Stripe a pedestrian crossing at Fern to Gilmore Park
- N. Indian Circle ditch clearing
- Maintenance at Johnny Johnson Nature Trails
- Down payment assistance for housing

3. Council Discussion/Direction

City Manager Whitten provided his recommendations which are:

- Unchanged Property Tax Rate of 6.4532 mills
- 3% Fire Assessment increase
- 4% Water/Sewer Utility rate increase

- 4.5% Stormwater assessment increase
- 3% CPI increase in solid waste

City Manager Whitten discussed the creation of new parks. He mentioned the property that is somewhat shared between Chief Lamm and the Clearlake Education Center. He stated that, with Council's permission, he would like to start discussing the possibility of entering into a long-term lease with Brevard County School Board for that property.

* **Consensus by Council to allow the City Manager to begin discussions with Brevard County School Board regarding the possibility of entering into a long-term lease on the property located between the City of Cocoa Fire Department and the Clearlake Education Center.**

City Manager Whitten shared that Eastern Florida State College has offered the City a donation of a piece of land on the corner of Rosentine Street and Range Road. With Council's permission, he will write them a letter in response to their donation to let them know that the City is interested in their offer.

* **Consensus by Council to allow the City Manager to write a letter to Eastern Florida State College to let them know that the City is interested in their donation offer.**

Councilmember Goins asked Mr. Smith if he could provide Council with a list of streets that the City is looking at paving over the next eight months. He explained that he has a list of streets that he would like to see paved and mentioned Churchill Dr., Thomas Ave., Highland St., Edinburgh Dr. and Rosa L. Jones Dr. that runs from US1 all the way to Aurora St. through Virginia Park.

Councilmember Koss added that she also has a list. In response, Mr. Smith shared that he can provide a proposed staff list and the cost associated with those based on the current contract. With what Council is able to provide, he could also include a cost associated with that so they can see what each road will cost. He noted that these costs are only associated with the paving and that staff would also need to go back and assess the sidewalks, curbs and signage.

Councilmember Goins added that he would like to see sidewalks installed on the streets he mentioned in the future, even if it can't be done right now.

Councilmember Koss asked if the City is still looking into the Safe Routes to School program. In response, Mr. Smith explained that the Space Coast TPO has started bringing in Rockledge, Brevard County and Cocoa to identify which schools need to have an analysis done on the sidewalks, any gaps and the routes. From there, the analysis will be able to identify which schools need the most help. Once that is complete the City can apply for grant funding.

Councilmember Koss asked for an estimated time frame for the work to be done. In response, Mr. Smith shared that the study would be completed next year so the grant for design would probably be done in FY24/25.

Deputy Mayor Hearn added that he would advocate for the streets that Councilmember Goins mentioned to be paved as those streets were previously in his district and are in dire need of work.

In regards to parks, City Manager Whitten shared that he, along with the Finance Director and Public Works Director, have discussed a parks impact fee which would be paid for by developers for park improvements and he forgot to mention this when the development fees were discussed previously. If Council does not have any objections, staff will continue to explore the option to do that or not do that with the City Attorney. He added that once staff has more information they will bring this back before the Council for further discussion.

III. <u>Adjournment.</u>

*** MOTION by Councilmember Dyal; Seconded by Mayor Blake, to adjourn the Budget Workshop of July 8, 2022.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

The meeting ended at 4:56 p.m.

_____
Michael C. Blake, Mayor

ATTEST:

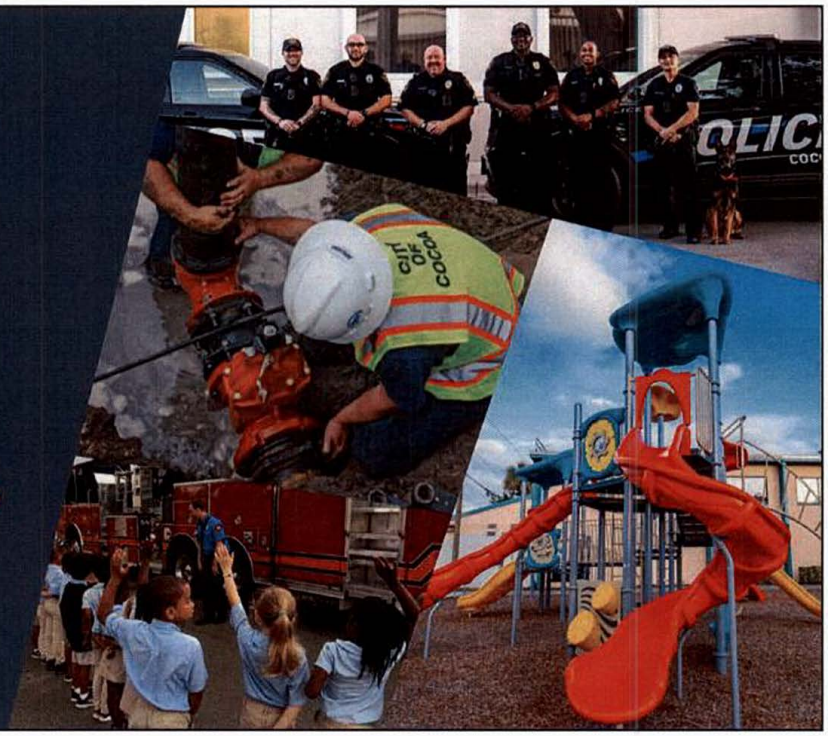
_____
Carie Shealy, MMC, City Clerk
(Transcribed by Monica Arsenault, Assistant City Clerk)

Exhibit A - FY23 Budget Priorities Workshop

COCOA
FLORIDA

FY 23 BUDGET PRIORITIES WORKSHOP

July 8, 2022



1

AGENDA

COCOA
FLORIDA

- Stantec Fiscal Sustainability Overview
  - General Fund Analysis/Millage Rate
  - Fire Assessment Rates
  - Water/Sewer Utility Fund Revenue Sufficiency/Rates
  - Stormwater Fund Forecast Sufficiency/Rates
- Budget Overview Discussion

2

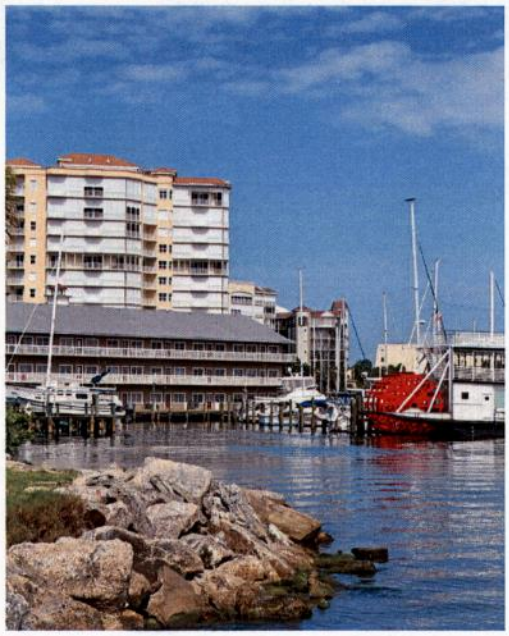


City of Cocoa
Annual Financial Analysis

July 8, 2022

Stantec

3



Agenda

1. Foundation
2. General Fund
3. Water and Sewer Utility
4. Stormwater

4

Foundations of the Analysis

- Revenue sufficiency analysis for General Fund, Utility Fund and Stormwater Fund performed during City's annual budget process
- Provide options and recommendations for sustainability

Why We Do This:

- Identify short-term and long-term impacts of current-year decisions
- Provide a framework for scenario evaluation and sensitivity tests
- Consider future cost requirements/events
- True-up assumptions based on current conditions

Source Data & Key Assumptions:

- Fiscal Year 2022 Adjusted Budget (including personnel increases)
- Fiscal Year 2023 Recommended Budget, discussions with Staff
- Fiscal Year 2023 – 2027 Preliminary CIP
- Forecast assumptions reflect staff input

5



General Fund Analysis

6

Key Planning Observations & Considerations

Objectives

- Evaluate sufficiency of revenues from property taxes and other sources to meet projected operating and capital costs

Key Observations

- Projection assumes current operating levels per Fiscal Year 2023 Recommended Budget
- CIP reflects an average annual spending of **$2.3M**
- Continued plan of fire assessment rate increases of 3% each year

Key Issues

- Long-term escalation of costs will outpace revenue growth

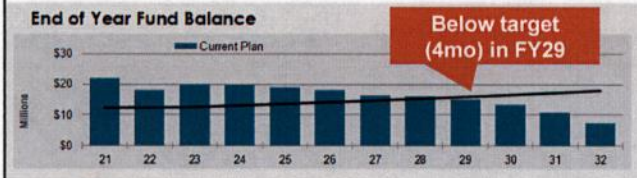
7

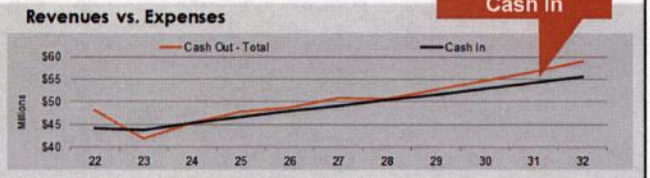
FAMS | City of Cocoa, FL — General Fund — Stantec

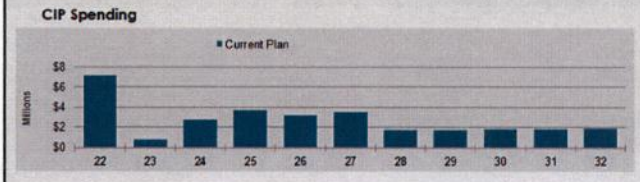
Millage maintained

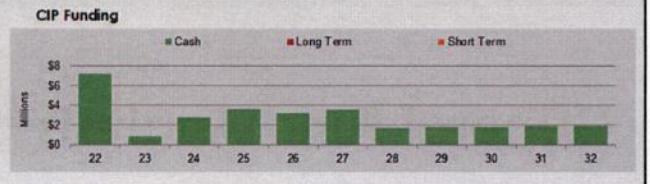
	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032
Millage Rate	6.4532	6.4532	6.4532	6.4532	6.4532	6.4532	6.4532	6.4532	6.4532	6.4532	6.4532
Taxable Value Increase	6.9%	7.4%	4.0%	6.4%	4.0%	4.0%	3.0%	3.0%	3.0%	3.0%	3.0%
Cash Flow Surplus/(Deficit) $M	$ (3.91)	$ 1.91	$ (0.03)	$ (1.04)	$ (0.80)	$ (1.58)	$ (0.36)	$ (1.05)	$ (1.76)	$ (2.53)	$ (3.38)
End of Year Fund Balance $M	$ 17.98	$ 19.89	$ 19.87	$ 18.83	$ 18.03	$ 16.45	$ 16.08	$ 15.05	$ 13.29	$ 10.75	$ 7.[illegible]

Cash Out > Cash In









8

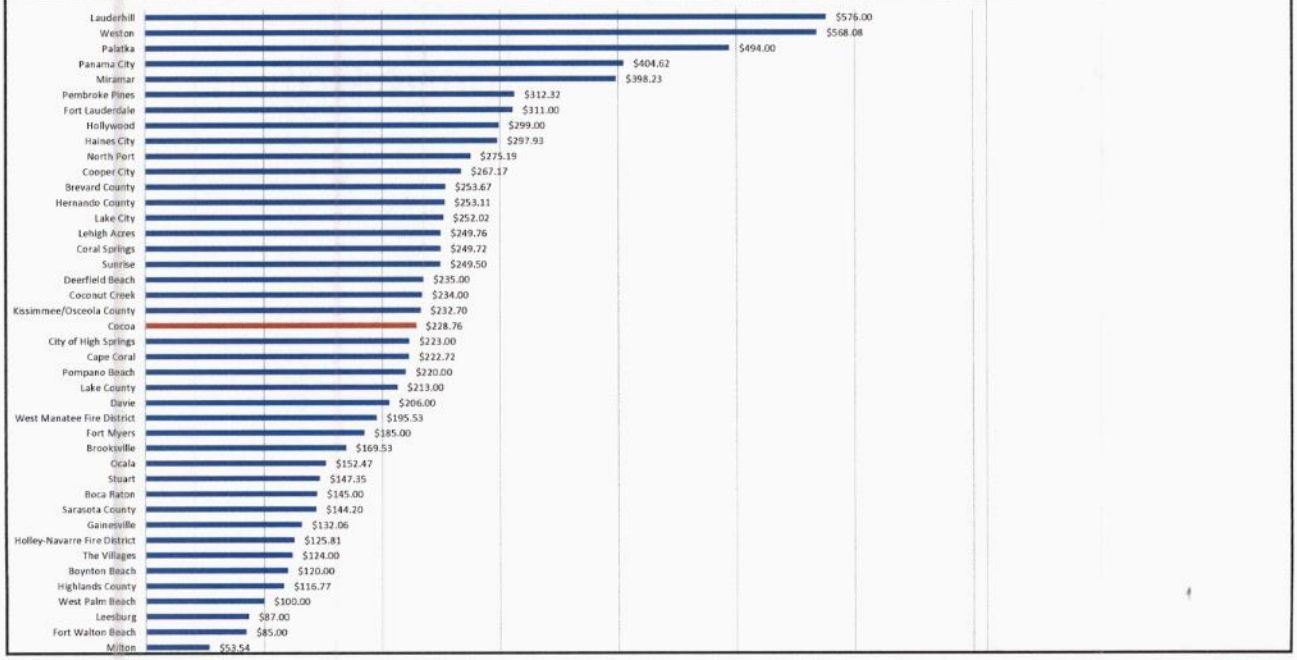
GENERAL FUND

City of Cocoa Fire Assessment Calculation	FY 2022 Adopted	FY 2023 Proposed	*Increase %*
Residential Rate per Dwelling Unit	$ 228.76	$ 235.62	*3.0%*
Tier 1 Rate per Parcel EBU	$ 161.74	$ 166.59	*3.0%*
Tier 2 Rate per Structure EBU	$ 10.14	$ 10.44	*3.0%*
Estimated Collected Revenue [1]	**$ 2,915,483**	**$ 3,085,647**	
Change $		*$ 170,164*	
Change %		*5.8%*	

[1] Collected revenue estimated at 95%.

9

FY 2022 Annual Residential Fire Assessment Fee Rate Survey for Single Family Homes



10



Water & Sewer Revenue Sufficiency Analysis

11

Key Planning Observations & Considerations

Background

- Annually review of revenue sufficiency
- 2021 Study = 4% annual rate indexing through FY 2031
- Council action: FY 2022 rates indexed by 4%

Objectives

- Identify alternative rate plan if needed
- Develop a sustainable capital financing plan

Key Issues

- Cost inflation (operating and capital)
- Alignment of capital needs and execution

12

Sustainable Financial Management Plan

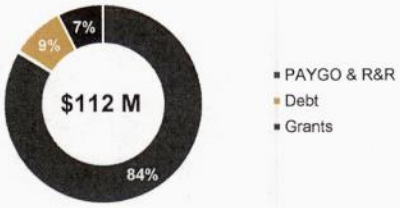
Keys to Financial Sustainability

Fund Capital Improvements, System Reinvestment, and Operating & Maintenance

Maintain Sufficient Operating Reserves
- Minimum: 6 months of operating costs
- Cover disruptions in revenue or unforeseen expenditures

Maintain Sufficient Debt Service Coverage
- Net revenues at least 2X annual debt service
- Minimize future debt issuances / maintain borrowing capacity

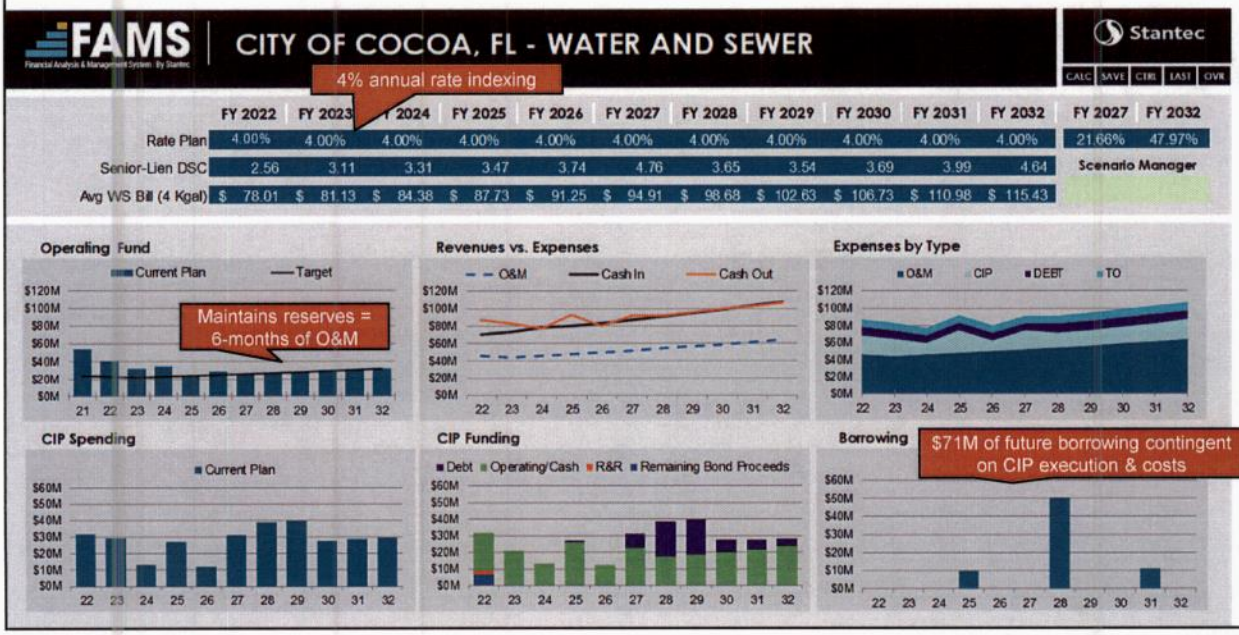
5 Yr. Capital Financing Plan



13

Current Approved Plan: 4% Rate Increase

14



14

Scenario: 2% FY 23 Rate Increase

15

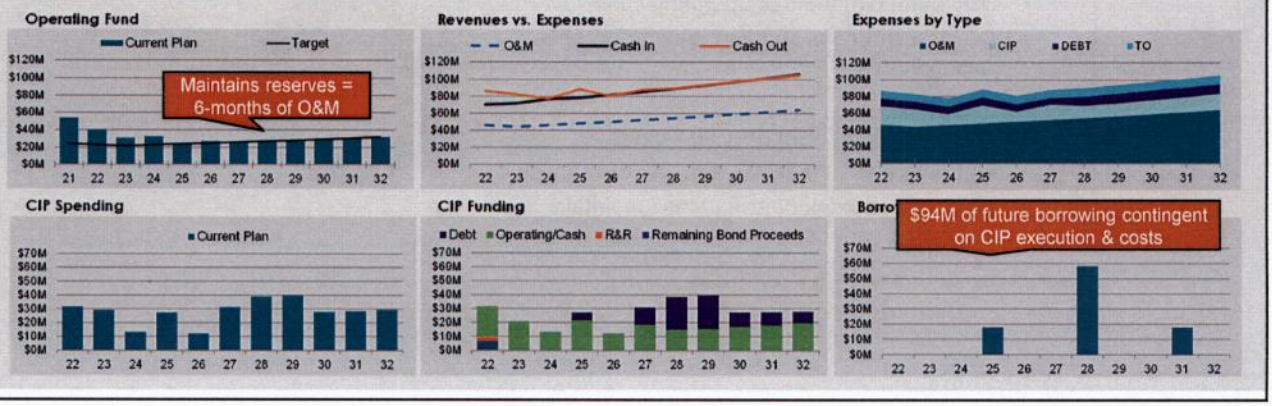
FAMS | CITY OF COCOA, FL - WATER AND SEWER

Stantec

2% increase in FY 23

4% annual rate indexing in FY 24

	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2027	FY 2032
Rate Plan	4.00%	2.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	19.36%	45.22%
Senior-Lien DSC	2.56	2.98	3.16	3.16	3.36	4.22	3.17	3.06	3.20	3.34	3.79	Scenario Manager	
Avg WS Bill (4 Kgal)	$ 78.01	$ 79.57	$ 82.79	$ 86.10	$ 89.55	$ 93.11	$ 96.84	$ 100.72	$ 104.74	$ 108.92	$ 113.29		



15

Scenario: No FY 23 Rate Increase

16

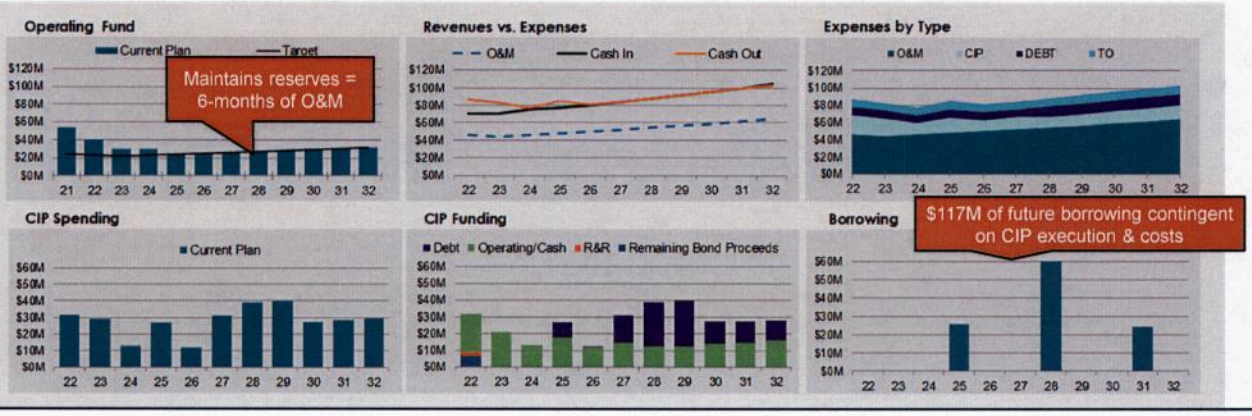
FAMS | CITY OF COCOA, FL - WATER AND SEWER

Stantec

No rate increase in FY 23

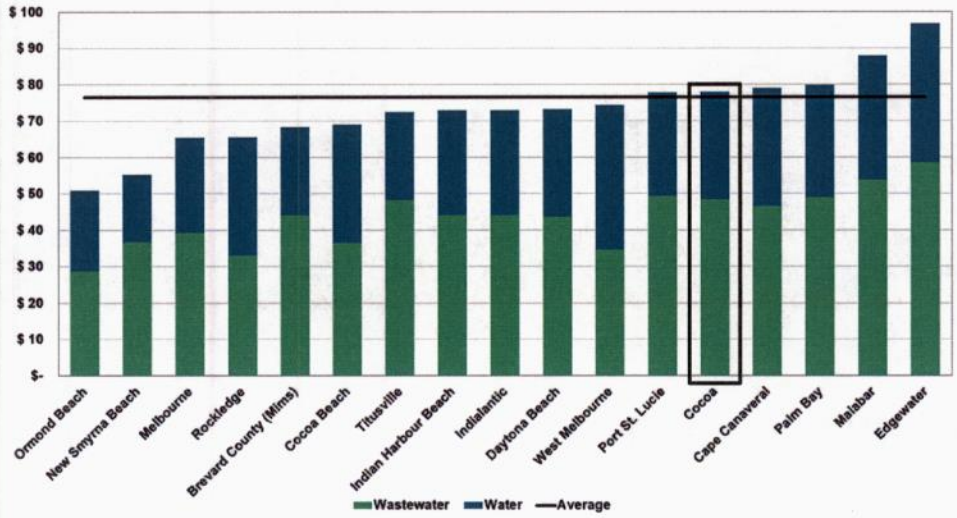
4% annual rate indexing in FY 24

	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2027	FY 2032
Rate Plan	4.00%	0.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	16.97%	42.26%
Senior-Lien DSC	2.56	2.84	3.02	2.88	3.02	3.75	2.77	2.67	2.79	2.83	3.16	Scenario Manager	
Avg WS Bill (4 Kgal)	$ 78.01	$ 78.01	$ 81.13	$ 84.38	$ 87.73	$ 91.25	$ 94.91	$ 98.68	$ 102.63	$ 106.73	$ 110.98		



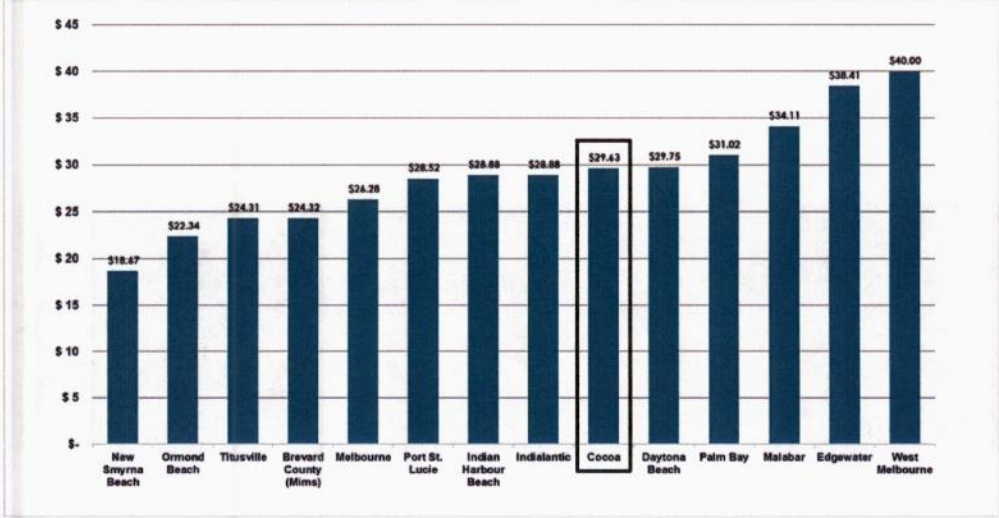
16

Residential Combined Monthly Bill Comparison – 4,000 Gals.



17

Residential Monthly Water Bill Comparison – 4,000 Gals.



18



Stormwater Forecast

19

Background

- Annual revenue sufficiency analysis to update the assessment rate
- Includes 4-month O&M reserve
- FY2022 plan included 4.5% increase in FY2023 and 4.0% indexing thereafter
- City received grants which supplemented capital funding



Church Street Baffle Box



Bracco Stormwater Management System



Florida Avenue Complete Street

20

Key Planning Observations & Considerations

Observations

- Current operating levels per FY2023 Recommended Budget
- Cost Allocation Study recommended increasing the transfer to General Fund for shared services by $197,000 or 57% since last study in 2019
- Capital plan increased

Key Issues

- Capital plan is unsustainable beginning in FY2027
- Aging infrastructure presents a key risk

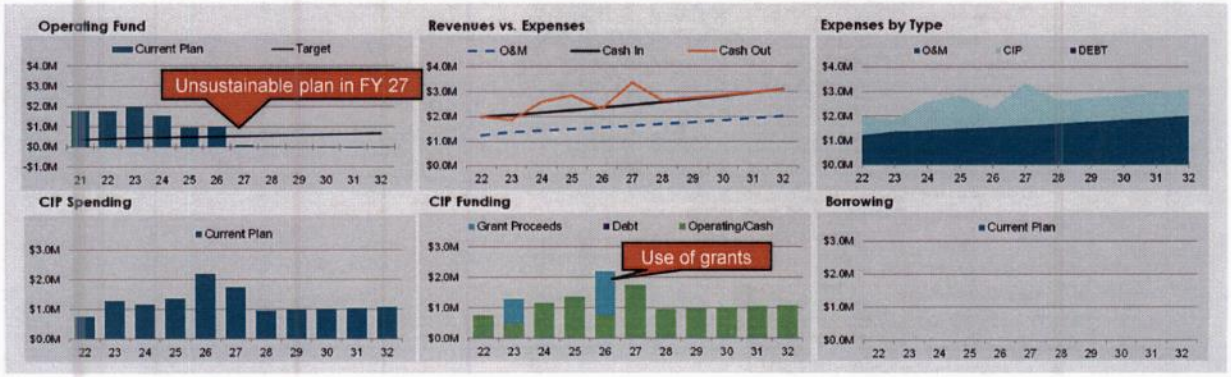
21

Unsustainable Stormwater Forecast

FAMS | City of Cocoa, FL — Stormwater Fund — Stantec

Maintains 4.5%

	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2026	FY 2031
Revenue Adjustment Plan	4.50%	4.50%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	22.25%	48.74%
Tier 1 SFR Assessment	$ 81.96	$ 85.65	$ 89.07	$ 92.64	$ 96.34	$ 100.20	$ 104.20	$ 108.37	$ 112.71	$ 117.22	$ 121.90		
Tier 2 SFR Assessment	$ 126.10	$ 131.77	$ 137.05	$ 142.53	$ 148.23	$ 154.16	$ 160.32	$ 166.74	$ 173.41	$ 180.34	$ 187.56		
Tier 3 SFR Assessment	$ 219.42	$ 229.29	$ 238.47	$ 248.00	$ 257.92	$ 268.24	$ 278.97	$ 290.13	$ 301.74	$ 313.80	$ 326.36		
Annual $ Change (Tier 2)		*$5.67*	*$5.27*	*$5.48*	*$5.70*	*$5.93*	*$6.17*	*$6.41*	*$6.67*	*$6.94*	*$7.21*		



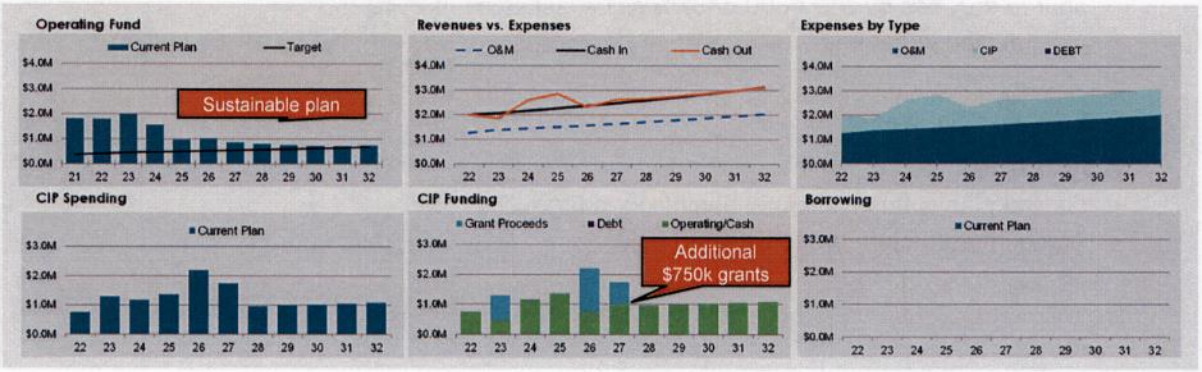
22

Sustainable Stormwater Forecast with Additional Grant Funding

FAMS | City of Cocoa, FL — Stormwater Fund — Stantec

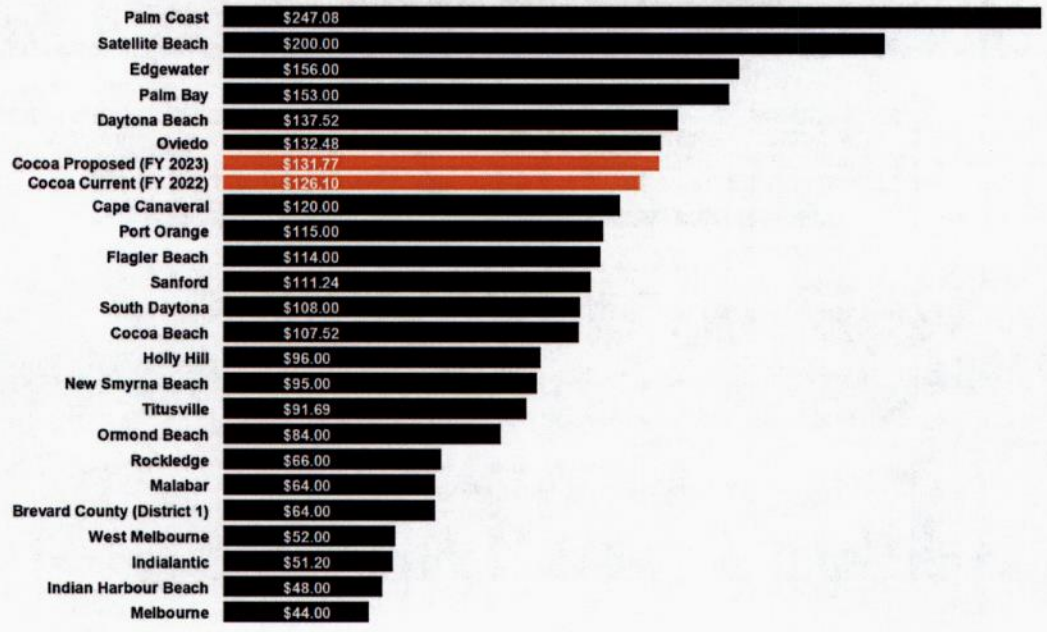
Maintains 4.5%

	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2026	FY 2031
Revenue Adjustment Plan	4.50%	4.50%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	22.25%	48.74%
Tier 1 SFR Assessment	$ 81.96	$ 85.65	$ 89.07	$ 92.64	$ 96.34	$ 100.20	$ 104.20	$ 108.37	$ 112.71	$ 117.22	$ 121.90		
Tier 2 SFR Assessment	$ 126.10	$ 131.77	$ 137.05	$ 142.53	$ 148.23	$ 154.16	$ 160.32	$ 166.74	$ 173.41	$ 180.34	$ 187.56		
Tier 3 SFR Assessment	$ 219.42	$ 229.29	$ 238.47	$ 248.00	$ 257.92	$ 268.24	$ 278.97	$ 290.13	$ 301.74	$ 313.80	$ 326.36		
Annual $ Change (Tier 2)		*$5.67*	*$5.27*	*$5.48*	*$5.70*	*$5.93*	*$6.17*	*$6.41*	*$6.67*	*$6.94*	*$7.21*		



23

FY 2022 Annual Residential Stormwater Fee Rate Survey at 1 ERU



24

Summary of Results

General Fund	Fire Assessment	Water/Sewer Utility	Stormwater Rate
Maintaining the millage rate achieves near-term stability	A 3% increase is recommended to keep up with costs	Continue 4% annual rate indexing	4.5% assessment increase, 4.0% annual rate indexing beginning FY 24

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Questions & Discussion

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Peter Napoli
Consultant
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Jeff Dykstra
Managing Consultant
jeffrey.dykstra@stantec.com

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CHARTER REQUIREMENTS

COCOA FLORIDA

Section 2. - Submission of Budget

The city manager shall submit his recommended budget for the ensuing fiscal year to the city council at the time prescribed by general law. The council may, by resolution, require the city manager to submit a proposed budget by a date earlier than that prescribed by general law.

Section 4. - Council Action on Budget

Notice and hearings. The city council shall hold public hearings on the proposed budget and cause notice to be provided therefore, as provided by general law. However, in no event, shall the council adopt a budget without first holding a public hearing regarding same.

Adoption. The budget shall be finally adopted no later than the final weekday of the prior fiscal year. Should the council fail to adopt the budget on or prior to such date, the last proposed budget submitted by the city manager, shall be deemed to have been adopted by the council.

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FY23 RECOMMENDED BUDGET HIGHLIGHTS

COCOA FLORIDA

Current Level of Service Budget Proposal

- No new programs, services, positions

Cost of Operations

- 3% salary increase for employees
- 9.2% health insurance increase
- 9-18% other insurances increase

Rates & Fees

- Unchanged property tax rate of 6.4532 mills
- 3% fire assessment increase
- 4% Water/Sewer Utility rate increase
- 4.5% Stormwater assessment increase
- 3% CPI increase in solid waste
- Development, P&Z, Building Fees/Fire Inspection increases

28

DEVELOPMENT FEES COMPARISON

COCOA FLORIDA

	Cocoa Current	Cocoa Proposed	Brevard County	Titusville	Cocoa Beach	Melbourne	Palm Bay
Comprehensive Plan Amendment Small Scale	$500	$1550 + ad fees	$919	$1575 + $8 per acre + ad fees	$1,000	$1,150 + $210 Legal	$1,200
Site-plan Review	$350 + $25 per acre	$1500 + $50 per acre	$3,960.00 + $360.00 per acre	$1,155.00 plus $10.00 per acre	$750.00 less than 3 ac & 30K sf $1,500 at least 3 ac or 30K sf	$1,875 + $25 per acre	
Final Plat	$400 + $5 per lot + Surveyor Certification Cost	$1,500 + $25 per lot + surveyor certification cost	$3,389 + $87 a lot	$1,050.00 plus $20.00 per lot		$1,675.00	$800 Final Subdivision Plat Application

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BUILDING FEES COMPARISON

COCOA FLORIDA

	Cocoa - Current	Cocoa - Proposed	Titusville	Rockledge	Melbourne	Brevard County
Residential	$3.25 per $1,000	**$4.00 per $1,000**	$6.00 per $1,000	$7.50 per $1,000 up to $50k $4.00 per $1,000 over $50k	$6.25 per $1,000 up to $50k $5.25 per $1,000 over $50k	$3.25 per $1,000
Commercial	$5.25 per $1,000	**$6.00 per $1,000**	$6.00 per $1,000	$3.00 per $1,000 over $100k $2.00 per $1,000 over $500k	$4.25 per $1,000 over $500k $3.25 per $1,000 over $2M	$5.25 per $1,000

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FIRE INSPECTION FEES COMPARISON

COCOA FLORIDA

	Cocoa - Current	Cocoa - Proposed	BCFR - Current	Cocoa Beach	Palm Bay	Melbourne	Titusville
New Construction Fee. Based on $100,000 job.	$0	**$400**	$380	$350 (Plus cost of outside review)	$300	$625 (Combined w/ Building Fee)	$1188 (Combined w/ Building Fee
Avg. New Const. Insp Fee (Depends on inspection)	$0	**$120 per Insp.**	$141 per Insp.	$123 per Insp.	$116 Per Insp.	Included	Included
Avg. Inspection Fee (Based on 2000 Sq Ft. Business)	$0	**$35**	$35	$45	$50	$50 Per hour.	$50
Avg. Inspection Fee (Based on 15000 Sq Ft. Business)	$0	**$75**	$55	$75	$75	$50 Per hour.	$100
Avg. Reinspection Fee (Based on 2000 Sq Ft. Business)	$50	**$35**	$105	$120	$120	$50 Per hour.	$25
Avg. Reinspection Fee (Based on 15000 Sq Ft. Business)	$160	**$150**	$165	$165	$165	$50 Per hour.	$25

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MEDICAL PLAN HISTORY

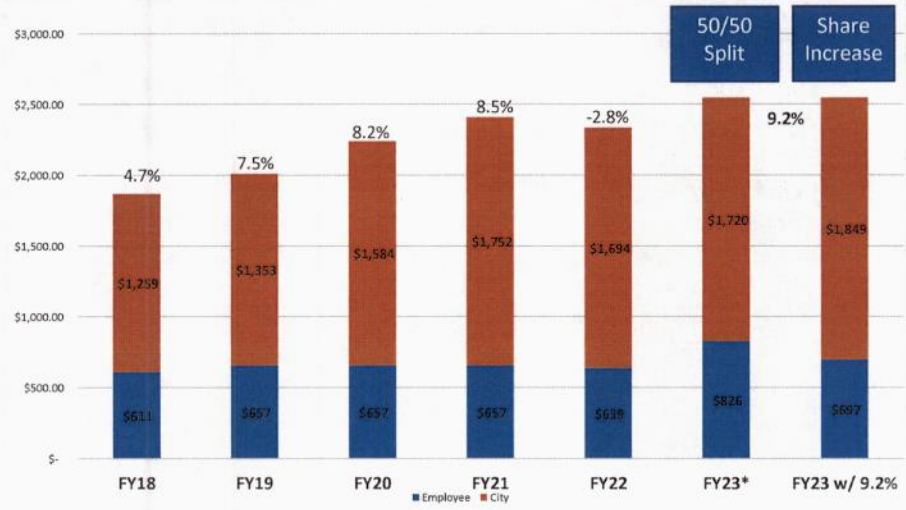
- Historically, the City has paid 100% for employee coverage and 50% of dependent/family coverage for medical, dental, and vision plans.
- Since the early 1990's this has been a practice.
- Included in 2 Collective Bargaining Agreements (IAFF and LIUNA).
- City absorbed the rate increase of the Medical Plan in FY2016, FY2020, and FY2021.
- FY2022, the City shared a 2.8% rate decrease.
- **Employee premiums for dependent coverage have not increased since October 1, 2018.**

Serving our community with P.R.I.D.E!

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FAMILY MONTHLY HISTORICAL RATES

COCOA FLORIDA



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FAMILY MONTHLY HISTORICAL RATES

COCOA FLORIDA

Return to Original Formula		Share 9.2% Increase (Recommended)	
City	Employee	City	Employee
$5,093,551	$736,424	$5,198,447	$631,529
+$331,516	+$157,913	+$436,411	+$53,017
Per Pay Change:	EE +1: $38.21 Family: $93.73	Per Pay Change:	EE +1: $14.91 Family: $29.26

34

FY23 RECOMMENDED BUDGET

COCOA FLORIDA

FY 2023 Budget - $163,744,032

- Increase of approximately $18 million from Current Year Adopted Budget (due to Utility Fund transfers)
- 11% increase in revenues and expenditures

Fund	FY 2023 Recommended Budget
General	$43,133,827
Special Revenue	$3,504,576
Building Permit	$672,155
Debt Service	$1,442,101
Water/Sewer	$82,826,373
W/S Impact Fees	$2,230,000
W/S Renewal and Replacement	$15,576,000
W/S Restricted Assets	$9,358,915
Stormwater	$2,054,239
Workers Comp	$1,375,179
TOTAL	**$163,744,032**

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FY23 NEW OPERATING COSTS

COCOA FLORIDA

FY23 Balanced Budget	
New Parks maintenance	$96,150
Alliance for Neighborhood Restoration donation (one-time)	$50,000
Brevard Museum maintenance	$44,500
Park Signs (one-time)	$30,000
Upstart Cocoa*	$20,000
Body Camera/taser leases (increase for each of next 5 years)	$5,400
Total New Operating Costs	**$246,050**
***CRA has also budgeted $10,000 for Upstart Cocoa**	

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RECOMMENDED USE OF UNASSIGNED BALANCE FY23

COCOA FLORIDA

USE OF UNASSIGNED FUND BALANCE TO FUND ONE-TIME NEEDS			
Public Works Annual Street Paving	$300,000	Information Technology Tricaster	$45,000
Police Department P25 Radios (26)	$135,050	Public Works City Hall HVAC Replacement	$41,000
Police Marked Patrol Vehicles (2)	$117,166	Gas Masks	$31,520
Fire Department P25 Radios (12)	$89,200	Fire Department Smoke Ejector Fans	$21,400
Alliance for Neighborhood Restoration	$50,000	Gas Mask Tester	$8,000
Information Technology Server Host	$50,000		
		TOTAL	$888,336

37

SLFRF (ARPA) FUNDS

COCOA FLORIDA

Recommended disposition of remaining SLFRF $2,545,781	
Potential Project Reallocation (Use of Remaining Funds)	**Amount**
Parks Cost Overruns (30% Estimate)	$690,000
Fire Pumper Truck	$634,500
Stormwater Gradall	$483,097
Police Vehicles (5)	$290,000
Fire Training Trailer	$246,184
Stormwater Dump Truck	$202,000

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PREVIOUSLY ADDRESSED COUNCIL PRIORITIES

COCOA FLORIDA

GENERAL FUND

- Old Dr. Joe Lee Smith Community Center
- Museums
- Homeless Initiatives
- Additional Street Paving
- J & K Septic to Sewer Conversion
- Capital Improvements within Parks
- Operating and Maintaining City Parks
- Subsidized Bus Routes
- Trailheads at Cocoa Conservation Area
- Enhanced Law Enforcement
- Facilitation of a Brightline Train Station in Cocoa
- Facilitation of Attainable Workforce Housing
- Municipal Swimming Pool in North/Central Area
- New Park Locations
- Additional Funding for Upstart Cocoa

COCOA CRA

- Fishing Pier
- Civic Center Renovations
- Cocoa Village Parking
- J & K Septic to Sewer Conversion
- Capital Improvements within Parks
  - On Street
  - Parking Lots
  - Lee Wenner
- Mooring Field
- Harrison Street Streetscape
- Enhanced Law Enforcement

Highlighted items – Funding provided in recommended budget

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COUNCILMEMBER BUDGET REQUESTS

COCOA FLORIDA

Councilmember Goins (District 1)

- Lucas/Washington flooding – stormwater lift station
- Cameras/lights/security at bathrooms
  - Gilmore park to get prepared for bathroom installation
- Churchill/Thomas/Highland/Rosa L/Edinburgh paving
- Increase Upstart Cocoa to 4-6 businesses
- Virginia Park – selective paving based on street assessment
- Stripe pedestrian crossing Fern and Prospect Gilmore Park crossing
- Solar LED lighting around Thomas Cole Stormwater pond
- Extend 6' metal fencing in front of Gilmore Park
- Install sewer and water service lines for Blake subdivision to lower costs to future homeowners
- Connect storm connections on Barbara Jenkins and surrounding area that will allow storm to flow to Cole Stormwater Pond to aid Bernard Street pond
- Funding to support selected non-profits for the old Dr. Joe Lee Smith Community Center moving forward
- Funding for the purchase of the Verizon property on Railroad Avenue for future storm water pond

Councilmember Hearn (District 2)

- Entryway at Fiske
- Park/pool – connect parks
- Street calming – Broadmoor Acres
- Expand City-wide beautification grants to $15k
- N Indian Cir flooding – ditch was filled in

Councilmember Dyal (District 3)

- Down payment assistance for housing (HUD requirements)
- SR524 Publix to Walmart lighting
- Cross/sidewalks to I-95
- Cocoa Conservation Area temporary entrance (neighborhood petition)
- Push SCTPO to move up funding for SR524
- More officers/fire as development continues

Councilmember Koss (District 4)

- Pine Ridge – park desert, sidewalks @Harvard, Pineda
- Cocoa Conservation Area trailhead
- Johnny Johnson Nature Trail
- Pool/park
- Electric vehicles/charging stations
- No plastic @ City events (KBB Litter Quitter program)
- Connect spending to strategic issues
- Additional items on spreadsheet

Highlighted items – Funding provided in recommended budget

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COUNCIL PRIORITIES FUNDED IN RECOMMENDED BUDGET

COCOA FLORIDA

- Museums
- Street paving
- Capital Improvements within parks
- Additional funding for Upstart Cocoa
- Stripe a pedestrian crossing at Fern to Gilmore Park
- N Indian Circle Ditch clearing
- Maintenance at Johnny Johnson Nature Trails
- Down payment assistance for housing

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CITY MANAGER RECOMMENDATIONS

COCOA FLORIDA

Rates & Fees

- Unchanged Property Tax Rate of 6.4532 mills
- 3% Fire Assessment increase
- 4% Water/Sewer Utility rate increase
- 4.5% Stormwater assessment increase
- 3% CPI increase in solid waste

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WHAT'S NEXT...

COCOA FLORIDA

July 26, 2022
6:00pm
TRIM Hearing (Set the tentative ad valorem millage rate)

August 9, 2022
6:00pm
Preliminary Fire Assessment and Stormwater Assessment Rates

August 23, 2022
6:00pm
Final Fire Assessment and Stormwater Assessment Rates

September 13, 2022
6:00pm
First public Millage/ proposed FY2023 Budget Hearing

September 27, 2022
6:00pm
Final public Millage/ adopt FY2023 Budget Hearing

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Legislation Details (With Text)

File #:	22-444	**Version:**	1	**Name:**	
Type:	Awards/Presentations			**Status:**	Agenda Ready
File created:	7/28/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Presentation by Historic Cocoa Village Main Street. (HCVMA)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:					

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: July 28, 2022
Agenda Date: August 23, 2022
Prepared By: Carie Shealy, City Clerk
Through:
Requested Action:
Presentation by Historic Cocoa Village Main Street.

BACKGROUND:

na

STRATEGIC PLAN CONNECTION:

na

BUDGETARY IMPACT:

na

PREVIOUS ACTION:

na

RECOMMENDED MOTION:

Presentation by Historic Cocoa Village Main Street.

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Legislation Details (With Text)

File #:	22-507	**Version:**	1	**Name:**	
Type:	Awards/Presentations			**Status:**	Agenda Ready
File created:	8/17/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Presentation from the Boys and Girls Club of Central Florida and Open-Door Concierge Services -The Young Kings, on the “Summer for the Kids”, State and Local Fiscal Recovery Funds - Grant Award/Program.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:					

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 17, 2022
Agenda Date: August 23, 2022
Prepared By: Lora Howell, Deputy Finance Director
Through: Rebecca Bowman, MBA, CGFO, CGFM, Finance Director
Requested Action:
Presentation from the Boys and Girls Club of Central Florida and Open-Door Concierge Services - The Young Kings, on the “Summer for the Kids”, State and Local Fiscal Recovery Funds - Grant Award/Program.

BACKGROUND:

At the May 10th, 2022 City Council Meeting, City Council approved the use of State and Local Fiscal Recovery Funds (SLFRF/ARPA), to implement a community-based program, “Summer for the Kids”, to provide funds to qualifying summer camp programs and services for the economically-disadvantaged school age citizens residing in the City of Cocoa.

Two organizations successfully applied and submitted Requests for Proposals in accordance with the grant funding requirements, and were awarded $10,000 for each program. The Boys and Girls Club of Central Brevard and Open-Door Concierge Services - The Young Kings.

Boys and Girls Club presenters are, Ms. Erin Harvey and Mr. Jack Masson.

Open-Door Concierge Services -The Young Kings presenters are, Ms. Erica Jackson, Ms. Tee Owens and Mr. Gerald Thomas.

STRATEGIC PLAN CONNECTION:

NA

BUDGETARY IMPACT:

NA

PREVIOUS ACTION:

NA

RECOMMENDED MOTION:

Presentation from the Boys and Girls Club of Central Florida and Open-Door Concierge Services - The Young Kings, on the “Summer for the Kids”, State and Local Fiscal Recovery Funds - Grant Award/Program.

Legislation Details (With Text)

File #:	22-435	**Version:** 1	**Name:**	HCVMS Municipal Services Agreement 2022	
Type:	Contract		**Status:**	Consent Agenda	
File created:	7/26/2022		**In control:**	City Council	
On agenda:	8/23/2022		**Final action:**		
Title:	Approval of the Municipal Services Agreement with Historic Cocoa Village Main Street. (Asst. to the CM/ PIO)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Second Addendum to Municipal Services Agmt. (HCVMS).pdf Addendum to Municipal Services Agreement.pdf 07_24_19 Municipal Services Agreement (Recorded).pdf Historic Cocoa Village Main Street - Municipal Services Agreement and lease 2022 - v. 2.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: July 26, 2022
Agenda Date: August 23, 2022
Prepared By: Samantha Senger, Assistant to the CM/Public Information Officer
Through: Stockton Whitten, City Manager
Requested Action:
Approval of the Municipal Services Agreement with Historic Cocoa Village Main Street.

BACKGROUND:

In July of 2019, the City of Cocoa entered into a two-year Municipal Services Agreement with Cocoa Main Street and the Historic Cocoa Village Association. The agreement outlined a scope of services that Main Street would provide the City in exchange for use of two offices in the Porcher House.

Two addendums to the contract were executed. The first was after Cocoa Main Street and Historic Cocoa Village Association merged organizations to consolidate and better outline the scope of services the new organization would be providing to the city in September 2020. The second, executed in July of 2021, was to extend the agreement for one additional one-year term allotted in the original agreement.

The current addendum to the Municipal Services Agreement expired July 31, 2022. Historic Cocoa Village Main Street (HCVMS) wishes to continue with their lease of the office space inside the Porcher House and in exchange would like to extend the Municipal Services Agreement. The agreement would allow HCVMS to lease office #203 and #204 through July 31, 2023 with the option for up to two additional one-year terms upon mutual agreement by the Parties. The offices will be

leased for $1.00 per year and Common Area Maintenance of $41.56 per month. In exchange HCVMS will provide to the City the following:

- Partner with and provide volunteers to assist with beautification and improvement of the City.
- Provide promotional tables to the City of Cocoa at each of the HCVMS events.
- Inclusion of the City logo on all promotional materials for upcoming events.
- Participation and support of the City's food, toy, and school supply drives.
- Help plan and promote "Hot Cocoa Holidays" events.
- Organize an art/design committee to facilitate art projects in the historic downtown.
- Coordinate business signage in the downtown with the city including new directory signs to be strategically placed throughout the downtown.
- Coordinate with the City's Economic Development team to enhance the welcome packet given to new businesses.
- Explore options for parking shuttles in the downtown.
- Co-op marketing efforts with the City including tourism marketing.
- Host community events such as the Arts and Crafts Fairs, Sip & Strolls, Car Shows, etc.
- Assist Public Works Department with landscaping enhancement projects.
- Assist Public Works Department with the annual sidewalk/curb cleaning project.
- Coordinate temporary signage in the empty storefronts.
- Conduct a brand audit, rebrand and implement a new website for the downtown district.
- Assist the City in conducting a waste audit in Historic Cocoa Village.

STRATEGIC PLAN CONNECTION:

Investment in Public Infrastructure - The partnership with HCVMS will help to enhance the beautification efforts in the downtown district as well as expand parking options for patrons.

Economic and Community Development - The partnership will also enhance economic development efforts through outreach to new businesses and enhancing the cohesive look of the downtown district.

Community Outreach and Engagement - HCVMS will be planning and promoting a number of community events that will attract a diverse array of attendees and market the village as a downtown destination.

BUDGETARY IMPACT:

The City will collect the annual lease revenue of $1.00 and then a monthly common area maintenance fee of $41.56. The partnership will bring cost savings to the city through HCVMS' landscaping and beautification efforts, directory signs, co-op marketing and promotional efforts, etc.

PREVIOUS ACTION:

Council approved the Municipal Services Agreement with the Historic Cocoa Village Main Street organization in 2019 and subsequent addendums in 2020 and 2021.

RECOMMENDED MOTION:

Approval of the 2022 Municipal Services Agreement with Historic Cocoa Village Main Street.

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SECOND ADDENDUM TO
MUNICIPAL SERVICES AGREEMENT

THIS SECOND ADDENDUM TO MUNICIPAL SERVICES AGREEMENT, is made and entered on this 27th day of July, 2021, by and between **THE CITY OF COCOA, FLORIDA, a Florida Municipal Corporation** (hereinafter called "City"), and **GREATER COCOA COMMUNITY PARTNERSHIP, INC., a Florida not for profit corporation, d/b/a "Historic Cocoa Village Main Street"** (hereinafter called "Service Provider").

RECITALS

WHEREAS, City and Service Provider are parties to that Municipal Services Agreement dated July 26, 2019, recorded in the Official Records of Brevard County, Book 8503, Page 162 ("Agreement"); and

WHEREAS, in exchange for the Municipal Services provided to the City by the Service Provider, the City currently leases Offices # 203 and 204 of the Porcher House to the Service Provider; and

WHEREAS, the City and Service Provider are also parties to that Addendum to Municipal Services Agreement, dated September 24, 2020, in which City and Service Provider agreed upon a revised **Exhibit A,** Scope of Work; and

WHEREAS, the parties now desire to enter into this Second Addendum to extend the term of the Agreement for an additional one-year term and make several additional modifications to **Exhibit A**, Scope of Work, and the Agreement as provided herein.

NOW THEREFORE, the parties hereto agree as follows:

Section 1.0 Recitals. The foregoing recitals are hereby deemed true and correct and are fully incorporated herein by this reference.

Section 2.0 Term of Agreement. The City and Service Provider hereby agree to extend the term of the Agreement for an additional one-year term, which shall commence on August 1, 2021 and continue in full force and effect through July 31, 2022.

Section 3.0 Exhibit A, Scope of Work Amended. The City and Service Provider hereby agree to modify **Exhibit A**, Scope of Work, by deleting and replacing the following subsections of **Exhibit A**, Section 2.0 as revised below:

Section 2.0.B. The Service Provider will include the City logo on all promotional materials for upcoming events. The City shall review the Service Provider's promotional materials in advance of their release, and the City may reject inclusion of the City logo thereon in its sole discretion.

Section 2.0.D. The Service Provider will plan and promote the "Hot Cocoa Holidays" events which will occur in December 2021, which include, but are not limited to, the Holiday Craft Fair, Cocoa/Rockledge Holiday Parade, and Cocoa Holiday Festival.

Section 2.0.E. The Service Provider will help to promote the City of Cocoa's City Government Week events in October 2021, which include, but are not limited to, an Open House at City Hall and a Touch-A-Truck event.

Section 2.0.K. The Service Provider will coordinate with the City's Public Information Officer on marketing materials for the historic downtown, including but not limited to, the Historic Cocoa Village brochure.

Section 4.0 **E-Verify.** A new Article 34 – E-Verify, is hereby added to the Agreement:

(a) Pursuant to section 448.095, Florida Statutes, beginning January 1, 2021, Contractors, which shall include Service Provider, 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.

(b) Subcontractors

(i) Contractor 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.

(ii) 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.

(iii) 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.

(c) Contractor 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.

(d) Failure to comply with this provision is a material breach of the Agreement, and shall result in the immediate termination of the Agreement without penalty to the City. Contractor 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.

Section 5.0 **Other Terms and Conditions; Conflict.** Any other term or condition of the Agreement not expressly modified by this Second Addendum shall remain in full force and effect. Should any term or condition of the Agreement or Addendum conflict with any term or condition of this Second Addendum, this Second Addendum shall control.

IN WITNESS WHEREOF, each party to this Second Addendum has caused it to be executed on the date indicated below.

ATTEST:

Carie Shealy, City Clerk

CITY OF COCOA:

Stockton Whitten **Date**
City Manager

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me by means of (✓) physical presence or (___) online notarization, this 27 day of July, 2021, by Stockton Whitten, the City Manager of the City of Cocoa, a Florida municipal corporation, on behalf of the City, who is personally known to me or produced _____ _____ as identification.

(NOTARY SEAL)

Notary Public State of Florida
NeoDasha Harris
My Commission GG 275710
Expires 11/26/2022

(Notary Public Signature)
NeoDasha Harris
(Print Name)
Notary Public, State of Florida
Commission No.: GG275710
My Commission Expires: 11/26/2022

WITNESSES:

Susan Bailey

SERVICE PROVIDER:

Pam Shaw

By: _____ 27 July 2021
Signature Date

STATE OF Florida
COUNTY OF Brevard

The foregoing instrument was acknowledged before me by means of ( ) physical presence or (✓) online notarization, this 27 day of July, 2021, by Pamela Shaw, the _____ of Greater Cocoa Community Partnership, Inc., a Florida not-for-profit corporation. He/she is personally known to me or produced _____ as identification.

(NOTARY SEAL)

Notary Public State of Florida
NeoDasha Harris
My Commission GG 275710
Expires 11/26/2022

(Notary Public Signature)
NeoDasha Harris
(Print Name)
Notary Public, State of Florida
Commission No.: GG275710
My Commission Expires: 11/22/2022

ADDENDUM TO
MUNICIPAL SERVICES AGREEMENT

THIS ADDENDUM TO MUNICIPAL SERVICES AGREEMENT, is made and entered on this 24 day of September, 2020, by and between **THE CITY OF COCOA, FLORIDA, a Florida Municipal Corporation** (hereinafter called "City"), and **GREATER COCOA COMMUNITY PARTNERSHIP, INC., a Florida not for profit corporation, d/b/a "Historic Cocoa Village Main Street"** (hereinafter called "Service Provider").

RECITALS

WEHEREAS, City and Service Provider are parties to that Municipal Services Agreement dated July 26, 2019, recorded in the Official Records of Brevard County, Book 8503, Page 162 ("Agreement"); and

WHEREAS, in exchange for the Municipal Services provided to the City by the Service Provider, the City currently leases Offices # 203 and 204 of the Porcher House to the Service Provider; and

WHEREAS, Exhibit A of the Agreement establishes the Scope of Work of the Municipal Services to be performed by the Service Provider; and

WHEREAS, Exhibit A provides that the City and Service Provider would agree upon a revised Scope of Work on or before March 1, 2020, which has been delayed due to the COVID-19 pandemic; and

WHEREAS, the parties now desire to enter into this Addendum to update the Scope of Work, which shall govern the Municipal Services to be performed by Service Provider through the remainder of the Agreement Term as defined in the Agreement.

NOW THEREFORE, the parties hereto agree as follows:

Section 1.0 Recitals. The foregoing recitals are hereby deemed true and correct and are fully incorporated herein by this reference.

Section 2.0 Scope of Work. Pursuant to Exhibit A, Scope of Work, of the Agreement, City and Service Provider hereby agree the following Scope of Work shall apply through the remainder of the Term of the Agreement:

A. The Service Provider will provide to the City a promotional table at each of the Service Provider's upcoming events for the City to display any promotional events or materials.

B. The Service provider will include the City logo on all promotional materials for upcoming events of the Service Provider. The City shall have the right to review the Service Provider's promotional materials in advance of their release and the City may reject inclusion of the City logo thereon in its sole discretion.

C. The Service Provider will help promote and collect items for the City's food, toy, and school supply drives.

D. The Service provider will help plan and promote the "Hot Cocoa Holidays" events which will occur in December 2020, which include but are not limited to, the Holiday Craft Fair, Cocoa/Rockledge Holiday Parade, and Cocoa Holiday Festival.

E. The Service Provider will help to promote the City of Cocoa's City Government Week events in October 2020, which include but are not limited to an Open House at City Hall and a Touch-a-Truck

event.

F. The Service Provide will be the organizing body of the Cocoa Village art group, Cocoa ArtBeatz, and facilitate art projects in the historic downtown.

G. The Service Provider will coordinate business signage in the downtown, to include number of signs per station and removing signage of businesses that are no longer operating, and will coordinate with the City to establish guidelines and maintenance schedules and procedures.

H. Service Provider will create and distribute in coordination with the City's Economic Development division an available properties guide for the downtown.

I. Service Provider will work with the City's Economic Development division on enhancing the welcome packet given to all new businesses in the community.

J. Service Provider will explore the option of having a parking shuttle available for the downtown and report back to the City costs, staffing and feasibility of this project.

K. Service Provider will coordinate with the City's Public Relations Specialist on marketing materials for the historic downtown including but not limited to: tourism marketing and advertising, and Historic Cocoa Village brochure.

L. Service Provider will host community events in the historic downtown to include but not limited to: Arts & Crafts Fairs, Sip &Stroll events, Car Shows, etc.

M. Service Provider will assist the City's Public Works Department on various landscaping enhancement projects for the historic downtown and will seek grants where possible to enhance the landscaping and ambiance of the downtown.

N. Service Provider will coordinate with the City's Public Works Department to help with the annual sidewalk/curb cleaning project.

O. Service Provider will work with property owners in the downtown to put up temporary signage in the vacant storefronts to enhance the look and cohesiveness of the downtown.

Section 3.0 Other Terms and Conditions; Conflict. Any other term or condition of the Agreement not expressly modified by this Addendum shall remain in full force and effect. Should any term or condition of the Agreement conflict with any term or condition of this Addendum, this Addendum shall control.

IN WITNESS WHEREOF, each party to this Addendum has caused it to be executed on the date indicated below.

ATTEST: **CITY OF COCOA:**

Carie Shealy, City Clerk

9/23/2020

Matthew Fuhrer **Date**
Interim City Manager

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me by means of (✓) physical presence or (___) online notarization, this 23 day of September, 2020, by Matthew Fuhrer, the Interim City Manager of the City of Cocoa, a Florida municipal corporation, on behalf of the City, who is personally known to me or produced _____ _____ as identification.

(NOTARY SEAL)

MONICA R. ARSENAULT
Commission # GG 985789
Expires June 16, 2024
Bonded Thru Budget Notary Services

(Notary Public Signature)
Monica Arsenault
(Print Name)
Notary Public, State of Florida
Commission No.: GG985789
My Commission Expires: 6.16.24

WITNESSES:

SERVICE PROVIDER:

By: _____ 9/24/20
Signature Date

STATE OF Florida
COUNTY OF Brevard

The foregoing instrument was acknowledged before me by means of (✓) physical presence or (___) online notarization, this 24 day of September, 2020, by Emma Kirkpatrick, the _____ of Greater Cocoa Community Partnership, Inc., a Florida not-for-profit corporation. He/she is personally known to me or produced _____ _____ as identification.

(NOTARY SEAL)

MONICA R. ARSENAULT
Commission # GG 985789
Expires June 16, 2024
Bonded Thru Budget Notary Services

(Notary Public Signature)
Monica Arsenault
(Print Name)
Notary Public, State of Florida
Commission No.: GG985789
My Commission Expires: 6.16.24

COCOA CITY
65 STONE ST

COCOA, FL 32922-7807

CFN 2019167895, OR BK 8503 PAGE 162,
Recorded 08/01/2019 at 02:21 PM, Scott Ellis, Clerk of
Courts, Brevard County
Pgs:24

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MUNICIPAL SERVICES AGREEMENT

THIS MUNICIPAL SERVICES AGREEMENT ("Agreement") is made and entered into this 26th day of July, 2019, by and between the **CITY OF COCOA, FLORIDA,** a Florida municipal corporation ("City"), and **GREATER COCOA COMMUNITY PARTNERSHIP, INC.,** a Florida Not For Profit Corporation, d/b/a "Cocoa Main Street," ("Greater Cocoa Community Partnership, Inc.,) located at 434 Delannoy Ave, Suite #100, Cocoa, FL 32922 and **THE HISTORIC COCOA VILLAGE ASSOCIATION, INC.,** a Florida Not For Profit Corporation ("The Historic Cocoa Village Association, Inc.") located at 600 Florida Ave., Suite #104, Cocoa Village, FL 32922 (the Greater Cocoa Community Partnership, Inc. and The Historic Cocoa Village Association, Inc., collectively as "Service Provider") (all three parties collectively the "Parties").

RECITALS:

WHEREAS, the Greater Cocoa Community Partnership, Inc., is a bona-fide nonprofit 501(c)(3) corporation, the purpose of which is to enhance the community identity and heritage, foster a center of activity, and ensure economic stability for the heart of Cocoa through concentrated efforts of design, promotion, organization and economic revitalization;

WHEREAS, The Historic Cocoa Village Association, Inc., is a bona-fide nonprofit 501(c)(6) corporation, whose mandate is to help promote and encourage growth of the Historic Cocoa Village community and the City of Cocoa in general by organizing and hosting community events and activities in the village;

WHEREAS, the City is the sole owner of the Porcher House, and leases portions of same to tenants for different business purposes;

WHEREAS, the Greater Cocoa Community Partnership, Inc., d/b/a/ "Cocoa Main Street," has been a tenant of the Porcher House for the past several years and desires to continue to lease space at the Porcher House for the purpose of conducting its nonprofit association for community and special events;

WHEREAS, the Greater Cocoa Community Partnership, Inc., and The Historic Cocoa Village Association, Inc., have advised the City of the intent of the two corporations, which share similar purposes, to form one nonprofit association d/b/a "Historic Cocoa Village Main Street;" however, at the time of entering this Agreement, the relevant documents combining the two corporations have not yet been approved by the Florida Department of State Division of Corporations;

WHEREAS, the Greater Cocoa Community Partnership, Inc., and The Historic Cocoa Village Association, Inc., desire to lease office space together at the Porcher House as provided for herein for the purpose of conducting their nonprofit associations for community and special events;

WHEREAS, given the stated intent of Greater Cocoa Community Partnership, Inc., and The Historic Cocoa Village Association, Inc., to form one nonprofit association in the near future, both such corporations desire to be parties to this Agreement and for this Agreement to be assigned to their single nonprofit association once same receives approval from the Florida Department of State Division of Corporations and the corporations provide such new nonprofit association information to the City as

provided for herein;

WHEREAS, the Service Provider requested that the City provide office space as identified herein for lease at the Porcher House a lease rate of $1.00 per year in exchange for the Municipal Services to be provided as detailed herein;

WHEREAS, the City Council has determined that the Municipal Services to be provided by Service Provider serve a municipal purpose and benefit the public health, safety, and welfare of the citizens of the City of Cocoa, and, in furtherance of this benefit, authorize said annual lease rate from the Service Provider, though monthly Common Area and Maintenance charges shall continue to be charged throughout the Agreement term, in exchange for the Municipal Services identified hereunder;

WHEREAS, the Parties desire to enter this Agreement defining their obligations relating to such Municipal Services, as well as their rights, duties, and liabilities relating to the rental of space at the Porcher House.

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:

Article 1 – Recitals. The foregoing recitals are deemed to be true and accurate and are fully incorporated herein by this reference.

Article 2 – Definitions. For purposes of this Agreement, the following terms and words shall have the meaning ascribed to them, unless the context clearly indicates otherwise:

"Agreement" or "Contract" shall be used interchangeably and shall refer to this Agreement, as may be amended from time to time by mutual written agreement by the Parties, which shall constitute authorization for the Service Provider to provide the Municipal Services stated herein.

"City" is the City of Cocoa, Florida, a Florida municipal corporation.

"Effective Date" shall be August 1, 2019. The Agreement shall not be effective against any party until said date.

"Greater Cocoa Community Partnership, Inc." is the Greater Cocoa Community Partnership, Inc., a Florida nonprofit corporation and bona fide 501(c)(3) corporation, d/b/a/ "Cocoa Main Street."

"Historic Cocoa Village Association, Inc." is the Historic Cocoa Village Association, Inc., a Florida nonprofit corporation and bona fide 501(c)(6) corporation.

"Municipal Services" or "Work" shall be used interchangeably and shall refer to the performance of the services outlined in Article 5 of this Agreement.

"Premises" shall mean any office rental space within the Porcher House provided by the City and occupied by the Service Provider in accordance with this Agreement.

"Public Record" is as described in Section 119.011(12), *Florida Statutes.*

"Rent" or "Rental Amount" or "Nominal Rental Amount" shall mean the monies paid to the City by the Service Provider in accordance with Article 8 of this Agreement.

"Service Provider" is both the Greater Cocoa Community Partnership, Inc., a Florida nonprofit corporation, d/b/a "Cocoa Main Street," and the Historic Cocoa Village Association, Inc.

Article 3 – Term of Agreement. The Term of this Agreement shall commence on the Effective Date and shall continue in force and effect through July 31, 2021. The City shall have the option to renew this Agreement for up to one (1) additional one (1)-year term upon mutual agreement by the Parties, which shall be in writing and executed by both Parties. The City Manager shall act for the City hereunder.

Article 4 – Lease of Premises. In exchange for the Municipal Services provided to the City by the Service Provider, as further described in Article 5, the City agrees to lease the Premises to Service Provider in accordance with the lease provisions found elsewhere herein.

Article 5 – Engagement; Municipal Services. The City hereby engages the Service Provider and the Service Provider agrees to perform the Municipal Services more particularly described on the Scope of Work attached as **Exhibit "A"** and incorporated herein. Specifically, the Service Provider shall supply any and all personnel necessary to provide the Municipal Services identified in the Scope of Work unless otherwise directed by the City.

Unless otherwise specifically agreed to in writing by the City, there shall be no additional consideration for the performance of the Municipal Services by the Service Provider aside from the nominal Rental Amount charged to the Service Provider, which nominal amount is authorized by the City in exchange for the Municipal Services provided in accordance with this Agreement.

Section 5.1 – Municipal Services a Material Term and Condition of Agreement. The Municipal Services constitute a material term and condition of the Agreement and the failure of the Service Provider to perform the Municipal Services, as determined by the City, constitutes a material breach of this Agreement and a cause for termination of the Agreement and surrender of the leased Premises as further provided for herein.

Section 5.2 – Submittal of Progress Reports. At the request of the City, Service Provider shall submit to the City a written progress report as to the status of all Municipal Services set forth in this Agreement. If the detail is not sufficient in the City Manager's reasonable discretion to permit the City to determine the Municipal Services performed or the manner in which it is being performed, the City may seek more detail from the Service Provider.

Article 6 – Leased Premises; Relocation of the Service Provider. The City does hereby lease, demise and let unto the Service Provider, and the Service Provider does hereby rent, lease, hire and take from the City, to have and to hold during the Term, subject to the terms and conditions of this Agreement, certain Premises within the Porcher House.

Such leased Premises shall consist of that portion of the property located at 434 Delannoy Avenue, Cocoa, Florida 32922, Offices #203 and #204. Office #203 is calculated at approximately 228 square feet, and Office #204 is calculated at approximately 276 square feet, such number being used to determine the common area maintenance charge.

The Parties agree that Offices #203 and 204 are considered to be premium office space as within the Porcher House. The Parties agree that, should another suitable office space (as determined by the City) within the Porcher House become available and the City have the availability to lease Offices #203 and 204 at the full lease rate, that City hereby reserves the right to, with proper notice, relocate the Service Provider to other office space within the Porcher House.

Article 7 – Use of Leased Premises.

Section 7.1 – Use. The Premises shall be used and occupied by Service Provider in the operation of its lawful trade or business as presently carried on by Service Provider, limited to general office activities, more particularly described as non-profit association(s), in a safe, careful and proper manner, so as not to contravene any present or future governmental laws, rules, regulations, policies, procedures or orders. If improvements are necessary to comply with any of the foregoing or with the requirements of insurance carriers, due solely to Service Provider's use of the Premises, Service Provider shall be required to seek written approval from City prior to making the improvements and if approved, Service Provider shall pay the entire cost thereof.

Section 7.2 – Historic Preservation. Service Provider shall not use the Premises in any manner that disrupts the historic nature of the Porcher House through its use or alterations. This Agreement shall be subject to any historic preservation regulations and other requirements that are applicable to the Porcher House.

Section 7.3 – Nuisance. Service Provider shall not cause or maintain any nuisance in or about the Premises and the property thereon, 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.

Section 7.4 – Unlawful or Dangerous Activity. Service Provider shall neither use nor occupy the Premises or any part of the Premises for any unlawful, disreputable, or ultrahazardous 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 ultrahazardous use, take action to halt such activity.

Section 7.5 – Common Areas. Service Provider shall have use of common areas including parking areas, ways, exits, entrances, roadways, and rest rooms for the general use, in common, of Service Providers, their officers, agents, employees, and customers. However, the common area use cannot interfere with any of the City of Cocoa's operations and does not include any area on the first floor of the building.

Article 8 – Rent and Common Area and Maintenance Charges.

Section 8.1 – Annual Rental Amount. The City agrees to accept One Dollar and 00/100 ($1.00) per year from the Service Provider, due on or before August 1, 2019 and August 1, 2020, respectively, as a nominal annual Rental Amount for the rental of the Premises.

Section 8.2 – Monthly Common Area and Maintenance (CAM) charges. Common Area and Maintenance (CAM) charges, shall be paid on a monthly basis, on or before the 1st of each month. Payments made after the 5th day of the month shall be subject to a ten percent (10%) late fee. Monthly CAM charges due shall be in equal installments of Thirty-Nine Dollars and 90/100 ($39.90) for each month of this Agreement. Such monthly CAM charges due represent the collective amount due for both offices each month, which, separately are Twenty-One Dollars and 85/100 ($21.85) for Office #203 and Eighteen Dollars and 05/100 ($18.05) for Office #204. Common area costs shall mean all sums expended by the City for the maintenance and operation of the common areas and property management fees incurred by the City and all increases in any such costs and expenses. Costs for maintenance, management, and operation of the common areas shall include, but not be limited to, the following: cleaning, sweeping, resurfacing and restripping; cleaning and/or treating exterior brick surfaces; cleaning exterior window surfaces; repainting; repairs to buildings and improvements; relandscaping; supplying directional signs and other markers; car stops; lighting, water, and other utilities; and other costs necessary in the City's judgment for the maintenance and operation of the common areas, and any other charges, costs, and expenses that arise during the Term of this Agreement. This amount described above is subject to change based on circumstances unforeseen at the City's discretion.

Section 8.3 – Sales tax. The amounts due as provided for above do not include sales tax, inasmuch as the Service Provider, at the time of executing this Agreement, is a non-profit, tax-exempt corporation and thus provides that such sales tax is inapplicable. Should the Service Provider lose its status as a non-profit, tax-exempt corporation, at any time during the Term of this Agreement, applicable sales tax shall be calculated and imposed as of the date which the Service Provider no longer enjoys such status. The Service Provider shall give notice to the City of any change in its non-profit, tax-exempt status within five (5) days thereof, for the purpose of calculation, imposition and payment of applicable sales tax.

Section 8.4 – Payments to the City – General. All amounts payable by the Service Provider to the City under this Agreement, whether Rent, CAM charges, Security Deposit or any other payment, shall be payable when due, without deduction or set-off, in U.S. Dollars made payable to The City of Cocoa, Attention: Finance, at the address of, 65 Stone Street, Cocoa, Florida 32922, or to such other person or at such other address as City may from time to time designate in writing.

Section 8. 5 – Late Fee and Costs. The Service Provider shall pay the City a late charge equal to ten percent (10%) of any payment amount if payment is not tendered within five (5) days of its due date. Such payment shall be submitted as described in Section 8.4 above. The Service Provider shall indemnify the City against all costs and charges (including legal fees) lawfully and reasonably incurred in enforcing payment thereof, and in obtaining possession of the Premises after default of the Service Provider or upon expiration or earlier termination of the Term of this

Agreement, or in enforcing any covenant, proviso or agreement of Service Provider herein contained.

Article 9 – Use of City's Office Equipment. The Service Provider shall have no right to share in the use of City's office equipment.

Article 10 – Property Management. The Service Provider acknowledges that the City may retain a management company ("Management Company") to manage and operate the property described in this Agreement. The Service Provider hereby agrees not to interfere with the City or the Management Company's duties and responsibilities under the Management Agreement. This Agreement shall be subject to any applicable provision in any future Management Agreement and any provision of this Agreement that conflicts with the Management Agreement shall be null and void and the applicable provision of the Management Agreement shall be substituted for the conflicting Agreement provision as if that provision was originally made a part of this Agreement.

Article 11 – Maintenance, Repair, Alterations and Renovations by the City.

Section 11.1 – Maintenance, Repair and Replacement. The City shall be responsible for and shall expeditiously maintain and repair the foundations, structures and roofs of the Premises in their condition as they exist at the execution of this Agreement, less reasonable wear and tear over the Term, provided that:

A. If all or part of the Premises is destroyed, damaged or impaired, the City shall have a reasonable time in which to complete the necessary repair or replacement;

B. The City shall use reasonable diligence in carrying out its obligations under this Article 11, but shall not be liable under any circumstances for any consequential damage to any person or property for any failure to do so; and

C. Nothing contained herein shall be in derogation of the provisions of this Agreement regarding Destruction of the Premises.

D. Under no circumstances shall the City be liable to the Service Provider for any damage suffered by the Service Provider, its employees, agents, customers or invitees as a result of moisture or water inside the Premises whether caused by natural disasters and other acts of God, leaks in the structure or in the plumbing.

Section 11.2 – Alterations by the City. City may from time to time make repairs, replacements, changes or additions to the structure, systems, facilities and equipment in the Premises where necessary to serve the Premises; provided, however, that in so doing the City shall not disturb or interfere with the Service Provider's use of the Premises and operation of its business any more than is reasonably necessary under the circumstances and shall repair any damage to the Premises caused thereby.

Section 11.3 – Renovation by the City. In the event the City determines it is necessary to renovate the Premises of the Service Provider, and said renovation may significantly impact the Service

Provider's use of the Premises, the City may do so upon not less than seven (7) calendar days notice. If deemed necessary by the City, the Service Provider shall relocate promptly upon the request of City, at the Service Provider's expense. During any period of City renovation where the Service Provider was required to relocate, there will be a rent abatement. Upon completion of renovation, the Service Provider will be required to return to the Premises and adhere to all terms of this Agreement.

Section 11.4 – Access by City. The Service Provider shall permit the City or the City's agents to enter the Premises at all reasonable hours, including outside normal business hours, and, during normal business hours where such will not unreasonably disturb or interfere with the Service Provider's use of the Premises and operation of its business, to examine or inspect-the Premises, to provide services, to make repairs, replacements, changes or alterations as set out in this Agreement and/or that the Service Provider may neglect or refuse to make in accordance with the provisions of this Agreement, and to take such steps as the City may deem necessary for the safety, improvement or preservation of the Premises or the building. The City shall, whenever possible, consult with or give reasonable notice to the Service Provider prior to such entry, but no such entry shall constitute an eviction or entitle the Service Provider to any abatement of Rent.

Article 12 – Maintenance, Repair, Alterations and Improvements by the Service Provider.

Section 12.1 – Condition of Premises. Except to the extent that the City is specifically responsible under Article 11 of this Agreement, the Service Provider shall maintain the Premises and all improvements therein in their condition, as they exist at the execution of this Agreement, less reasonable wear and tear, at the Service Provider's sole cost and expense.

Section 12.2 – Alterations by Service Provider. The Service Provider may from time to time at the Service Provider's own expense make changes, additions and improvements in the Premises to better adapt the same to its business, provided that any such change, addition or improvement shall:

A. Be performed in a satisfactory manner and shall not weaken or impair the structural strength, or lessen the value, of the building or Premises, or change the purposes for which the building, or any part of the building, may be used; and

B. Not compromise the historic nature of the Porcher House, as determined by the City; and

C. Comply with the requirements of any governmental authority having jurisdiction; and

D. Equal or exceed the then current standard for the building; and

E. Require the prior written consent of City.

Should the Service Provider make changes, additions and improvements without complying with the provisions of this Section, the Service Provider shall be fully liable to the City to restore the

Premises to the same or better condition that existed prior to the unauthorized changes, additions and improvements. If the Service Provider fails to make the restorations within the time prescribed by the City, the City may, at its discretion, immediately terminate this Agreement, without penalty, and restore the Premises at the Service Provider's sole expense.

Section 12.3 – Trade Fixtures and Personal Property. The Service Provider may install in the Premises its usual trade fixtures and personal property in a proper manner, provided that no such installation shall interfere with or damage the mechanical or electrical systems or the structure of the building. If the Service Provider is not then in default hereunder, trade fixtures and personal property installed in the Premises by the Service Provider may be removed from the Premises:

A. From time to time in the ordinary course of the Service Provider's business or in the course of reconstruction, renovation, or alteration of the Premises by the Service Provider; and

B. During a reasonable period prior to the expiration of the Term;

provided that the Service Provider promptly repairs at its own expense any damage to the Premises or building resulting from such installation and removal.

Article 13 – Taxes.

Section 13.1 – Service Provider's Taxes. The Service Provider shall pay on or before the last day on which payment may be made without penalty or interest, all applicable taxes, assessments, or other governmental charges that shall or may during the Agreement Term be imposed on, or arise in connection with the use of, the Premises or any part of the Premises including, but not limited to:

A. Florida state sales tax, if applicable, and all other applicable taxes, other than income taxes and taxes of a similar nature, due on rentals, including city, state, county and federal taxes that may be in effect from time to time; and

B. Operations at, occupancy of, or conduct of business in or from the Premises by or with the permission of the Service Provider; and

C. Fixtures or personal property in the Premises which do not belong to the City; and

D. Rent paid or payable by the Service Provider to the City for the Premises or for the use and occupancy of all or any part thereof, specifically including, but not limited to, applicable sales and /or use taxes imposed by any governmental authority having jurisdiction; and

E. It is the intention of the Parties that the rent specified in this Agreement is net rental, and the City shall receive such rent free from all taxes that are made payable by the Service Provider.

Section 13.2 – Notice of Payment of Taxes. The Service Provider shall, within seven (7) calendar days after the time provided for the payment of any applicable tax or other governmental charge by the Service Provider, produce and exhibit to the City satisfactory evidence of the payment.

Article 14 – Utilities. The City will be responsible for all electrical, garbage, water and sewer charges, however, will not be responsible or liable to the Service Provider for disruptions in service due to no fault of the City. All applications and connections for other necessary utility services on the Premises, such as telephone service, shall be made in the name of the Service Provider only, with prior written consent of the City. The Service Provider shall be solely liable for utility charges, excluding electric, garbage, water and sewer, as they become due.

Article 15 – Insurance.

Section 15.1 – Insurance Requirements of the Service Provider relating to the Leased Premises. During the Term, the Service Provider shall maintain at its own expense:

A. Flood insurance, fire insurance with extended coverage and water damage insurance in amounts sufficient to fully cover Service Provider alterations and all property in the Premises which is not owned by City; and

B. Commercial General Liability or Businessowners' Liability insurance against claims for death, personal injury and property damage in or about the Premises, in amounts which are from time to time acceptable to a prudent tenant in the community in which the Premises is located, but not less than One Million Dollars ($1,000,000.00) combined single limit, in respect of each occurrence; and

All policies for insurance required pursuant to this Article 15 shall name the City and the Service Provider as the insureds as their respective interests may appear, shall contain standard mortgagee clauses in favor of the holders of any mortgages on the City's property, 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, the Service Provider shall from time to time promptly deliver to the City certified copies 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. The insurance requirements set forth herein shall not relieve or limit the liability of the Service Provider. The City does not in any way represent that these types or amounts of insurance are sufficient or adequate to protect the Service Provider's interest or liabilities, but are merely minimums.

Section 15.2 – Insurance Requirements of the Service Provider Relating to the Municipal Services. During the Term of this Agreement, Service Provider shall also maintain, at its own expense, the following insurance coverage:

A. *Worker's compensation insurance* in accordance with the applicable provisions of Florida law.

B. *Professional liability insurance* for all corporate officers and directors of Service Provider with a combined single limit of $1,000,000 for each occurrence and $1,000,000 in the aggregate.

C. *Commercial general liability insurance* with a combined single limit of $1,000,000 for each occurrence and $1,000,000 in the aggregate.

All policies for insurance required herein shall name the City and the 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. The Service Provider shall provide a copy of all insurance certificates to the City. Should the Service Provider fail to provide the insurance certificates or fails to obtain coverage in the aforementioned amounts, the City shall have the right to terminate this Agreement if the Service Provider unreasonably delays compliance. If requested by the City, the Service Provider shall from time to time promptly deliver to the City certified copies 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. The insurance requirements set forth herein shall not relieve or limit the liability of the Service Provider. The City does not in any way represent that these types or amounts of insurance are sufficient or adequate to protect the Service Provider's interest or liabilities, but are merely minimums.

Article 16 – Indemnification and Hold Harmless.

Section 16.1 – Indemnification and Hold Harmless Relating to Leased Premises. The Service Provider shall hold harmless and indemnify the City against any and all expenses, liabilities, and claims of every kind, including reasonable attorneys' fees of attorneys selected by the City, and related expenses through all appellate proceedings, by or on behalf of any person or entity arising out of either: (1) a failure by the Service Provider to perform any of the terms or conditions of this Agreement; (2) any injury or damage happening on or about the Premises; (3) failure to comply with any law of any governmental authority; or (4) any mechanic's lien or security interest filed against the Premises or equipment, materials, or alterations of buildings or improvements on the Premises.

The Service Provider recognizes the broad nature of this indemnification and hold harmless clause, as well as the provision of a legal defense to the City when necessary, 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, legal defense and hold harmless contractual obligations in accordance with the laws of the State of Florida. This Section shall survive the termination of this Agreement. Compliance with any insurance requirements required elsewhere within this Agreement shall not relieve the Service Provider of its liability and obligation to defend, hold harmless and indemnify the City as set forth in this Section of the Agreement. Nothing herein shall be construed to extend the City's liability beyond that provided in Section 768.28, Florida Statutes.

Section 16.2 – Indemnification and Hold Harmless Relating to the Municipal Services. For all Municipal Services and Work performed pursuant to this Agreement, the Service Provider shall 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, and agents performance of the Municipal Services and Work being performed under this Agreement; (b) Service Provider's, and its employees, partners, contractors, volunteers, and agents failure to comply with the provisions of any federal, state, or local laws, ordinance, or regulations applicable to Service Provider and its employees, partners, contractors, volunteers, and agents performance under this Agreement; and (c) any fraud and misrepresentation conducted by Service Provider and its employees, partners, contractors, volunteers, and agents. Service Provider shall not indemnify City against the sole negligence, gross negligence or willful misconduct of City or its employees or agents.

Nothing in this Agreement is intended to serve as a waiver of sovereign immunity by the City. Nothing in this Agreement shall be construed as consent by the City to be sued by third parties in any matter arising out of this Agreement or any other contract. 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 and officers which may result from the Municipal Services and Work performed under this Agreement whether the Municipal Services and Work are performed by the Service Provider, its employees, contractors, partners, volunteers, and agents or anyone directly or indirectly employed by the Service Provider. In all events 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 Section shall survive the termination of this Agreement.

Article 17 – Transfers by the City. Nothing in this Agreement shall restrict the right of the City to sell, convey, assign, mortgage or otherwise deal with the City's property or the right of the City to assign its interest in this Agreement subject only to the rights of the Service Provider under this Agreement.

Article 18 – Default or Breach. Each of the following events shall constitute a default or breach of this Agreement by the Service Provider:

A. If the Service Provider fails, as determined by the City, to perform the Municipal Services as described in Article 5.

B. If the Service Provider, or any successor or assignee of the Service Provider while in possession, shall file a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act, or shall voluntarily take advantage of any such act by answer or otherwise, or shall make an assignment for the benefit of creditors.

C. If the Service Provider shall fail to pay City any rent (inclusive of CAM charges) or additional rent when the rent shall become due and shall not make the payment within five (5) calendar days of its due date.

D. If the Service Provider shall fail to perform or comply with any of the conditions of this Agreement and if the nonperformance shall continue for a period of seven (7) calendar days after notice of nonperformance given by the City to the Service Provider or, if the performance cannot be reasonably had within the seven (7) calendar day period, Service Provider shall not in good faith have commenced performance within the seven (7) calendar day period and shall not diligently proceed to completion of performance.

E. If the Service Provider shall vacate or abandon the Premises.

F. If this Agreement or the estate of Service Provider under this Agreement shall be transferred to or shall pass to or devolve on any other person or party, except in the manner permitted in this Agreement.

G. If the Service Provider fails to take possession of the Premises on the term commencement date, or within seven (7) calendar days after notice that the Premises are available for occupancy, if the term commencement date is not fixed in this Agreement or shall be deferred as provided in Agreement.

Article 19 – Effect of Service Provider Default or Breach. In the event of any default or breach under this Agreement, including but not limited to the events as set forth in Article 18, the rights of the City shall be as follows:

A. The City shall have the right to cancel and terminate this Agreement, as well as all of the right, title, and interest of Service Provider under this Agreement, by giving to the Service Provider not less than seven (7) calendar days' notice of the cancellation and termination. On expiration of the time fixed in the notice, this Agreement and the right, title, and interest of the Service Provider under this Agreement, shall terminate in the same manner and with the same force and effect, except as to the Service Provider's liability, as if the date fixed in the notice of cancellation and termination were the end of the term originally set forth in this Agreement.

B. The City may elect, but shall not be obligated, to make any payment required of Service Provider in this Agreement or comply with any agreement, term, or condition required by this Agreement to be performed by Service Provider. The City shall have the right to enter the Premises for the purpose of correcting or remedying any such default and to remain until the default has been corrected or remedied, but any expenditure for the correction by the City shall not be deemed to waive or release the default of the Service Provider or the right of City to take any action as may be otherwise permissible under this Agreement in the case of any default, including holding the Service Provider responsible for any City expenditure.

C. The City may reenter the Premises immediately and remove the property and personnel of Service Provider, and store the property in a public warehouse or at a place selected by City, at the expense of Service Provider. After reentry City may terminate the Agreement on giving seven (7) calendar days' written notice of termination to Service Provider.

Without the notice, reentry will not terminate this Agreement. On termination, City may recover from Service Provider all damages proximately resulting from the breach, including the cost of recovering the Premises and the value of the balance of this Agreement over the reasonable rental value of the Premises for the remainder of the Agreement term, which sum shall be immediately due City from Service Provider.

D. After reentry, City may relet the Premises or any part of the Premises for any term without terminating this Agreement, at the rent and on the terms as City may choose. City may make alterations and repairs to the Premises. The duties and liabilities of the Parties if the Premises are relet as provided in this section shall be as follows:

i. In addition to the Service Provider's liability to the City for breach of the Agreement, the Service Provider shall be liable for all expenses of the reletting, for the alterations and repairs made, and for the difference between the rent received by City under the new Agreement and the rent installments that are due for the same period under this Agreement.

ii. The City shall have the right, but shall not be required, to apply the rent received from reletting the Premises to: (1) reduce the indebtedness of the Service Provider to the City under this Agreement, not including indebtedness for rent; (2) expenses of the reletting and alterations and repairs made; (3) rent due under this Agreement; or (4) to payment of future rent under this Agreement as it becomes due.

iii. If the new tenant does not pay a rent installment promptly to City, and the rent installment has been credited in advance of payment to the indebtedness of the Service Provider other than rent, or if rentals from the new tenant have been otherwise applied by City as provided for in this section and during any rent installment period are less than the rent payable for the corresponding installment period under this Agreement, the Service Provider shall pay City the deficiency, separately for each rent installment deficiency period, and before the end of that period. The City may at any time after a reletting terminate this Agreement for the breach on which the City had based the reentry and subsequently relet the Premises.

iv. After reentry, the City may procure the appointment of a receiver to take possession and collect rents and profits of the business of the Service Provider. The receiver may carry on the business of the Service Provider and take possession of the personal property used in the business of the Service Provider, including inventory, trade fixtures, and furnishings, and use them in the business without compensating the Service Provider. Proceedings for the appointment of a receiver by the City, or the appointment of a receiver and the conduct of the business of the Service Provider by the receiver, shall not terminate and forfeit this Agreement unless the City has given written notice of termination to the Service Provider as provided in this Agreement.

Article 20 – Destruction of Premises. In the event of a partial destruction of the Premises during the term of this Agreement from any cause, the City shall promptly repair such damage, provided the repairs can be made within a reasonable number of days under the laws and regulations of applicable governmental authorities and the cost of repairs are budgeted and appropriated by the City of Cocoa City Council. Any partial destruction shall neither annul nor void this Agreement, except that the Service Provider shall be entitled to a proportionate reduction of rent while the repairs are being made, any proportionate reduction being based on the extent to which the making of repairs shall interfere with the business carried on by the Service Provider on the Premises. In the event that the City does not elect to make repairs that cannot be made in a reasonable time, or those repairs cannot be made under the laws and regulations of the applicable governmental authorities, or the City of Cocoa City Council does not budget and appropriate money to conduct the repairs, this Agreement may be terminated at the option of either party.

Article 21 – Condemnation. Rights and duties in the event of condemnation subsequent to the effective date of this Agreement are as follows:

A. If the whole of the Premises shall be taken or condemned by any competent authority for any public or quasi-public use or purpose, this Agreement shall cease and terminate as of the date on which title shall vest in that authority, and the rent reserved under this Agreement shall be apportioned and paid up to that date.

B. If only a portion of the Premises shall be taken or condemned, this Agreement shall not cease or terminate, but the rent payable after the date on which the Service Provider shall be required to surrender possession of such portion shall be reduced in proportion to the decreased use suffered by the Service Provider as the Parties may agree or as shall be determined by arbitration.

C. In the event of any taking or condemnation in whole or in part, the entire resulting award of consequential damages shall belong to the City without any deduction from such award for the value of the unexpired term of this Agreement or for any other estate or interest in the Premises now or later vested in the Service Provider. The Service Provider assigns to City all Service Provider's right, title, and interest in any and all such awards.

Article 22 – Subordination. This Agreement and all rights of the Service Provider under this Agreement shall be subject and subordinate to the lien of any and all mortgages or requirements of any historic preservation grant that may now or in the future affect the Premises, or any part of the Premises, and to any and all renewals, modifications, or extensions of any such mortgages or grants. The Service Provider shall on demand execute, acknowledge, and deliver to the City, without expense to the City, any and all instruments that may be necessary or proper to subordinate this Agreement and all rights in this Agreement to the lien of any such mortgage(s) and grant(s). If the Service Provider shall fail at any time to execute, acknowledge, and deliver any such subordination instrument, the City, in addition to any other remedies available in consequence of such failure, may execute, acknowledge, and deliver the subordination instrument as the Service Provider's attorney-in-fact and in the Service Provider's name. The Service Provider irrevocably makes, constitutes, and appoints the City, its successors and assigns, the Service Provider's attorney-in-fact for that purpose.

Article 23 – Access to Premises; Sign Posted by the City. The Service Provider shall permit the City or its agents to enter the Premises at all reasonable hours to show the Premises to prospective buyers, renters, or government officials in the course of the City of Cocoa's municipal functions. At any time, the City may show the Premises to persons wishing to rent them. The Service Provider shall, at any time, permit the usual notices of "For Rent" and "For Sale" to be placed on the Premises and to remain on the Premises without hindrance and molestation.

Article 24 – Easements, Agreements, or Encumbrances. The Parties shall be bound by all existing easements, agreements, and encumbrances, which may or may not be of record relating to the Premises, and the City shall not be liable to the Service Provider for any damages resulting from any action taken by a holder of an interest pursuant to the rights of that holder.

Article 25 – Quiet Enjoyment. Subject to the terms and conditions of this Agreement, the City warrants that the Service Provider shall be granted peaceable and quiet enjoyment of the Premises free from any eviction or interference by the City if the Service Provider pays the rent and other charges provided in this Agreement, and otherwise fully and punctually performs the terms and conditions, in relation to the Municipal Services or otherwise, imposed on the Service Provider by this Agreement.

Article 26 – Liability of the City. The Service Provider shall be in exclusive control and possession of the Premises, and the City shall not be liable for any injury or damages to any property or to any person on or about the Premises or for any injury or damage to any property of the Service Provider. The provisions of this Agreement permitting the City to enter and inspect the Premises are made to insure that Service Provider is in compliance with the terms and conditions of this Agreement and to insure that the Service Provider makes repairs that the Service Provider has failed to make. The City shall not be liable to the Service Provider for any entry on the Premises for inspection purposes.

Article 27 – Rent abatement. No abatement, diminution, or reduction of rent shall be claimed or allowed to the Service Provider or any person claiming under the Service Provider under any circumstances, whether for inconvenience, discomfort, interruption of business, or otherwise, arising from the making of alterations, improvements, or repairs to the Premises, because of any governmental laws, or arising from and during the restoration of the Premises after their destruction or damage by fire or other cause, or the taking or condemnation of a portion only of the Premises, except as provided in Articles 11, 20 and 21.

Article 28 – Representations by City. At the commencement of the term, the Service Provider shall accept the Premises and improvements and any equipment in their existing condition and state of repair, and the Service Provider agrees that no representations, statements, or warranties, express or implied, have been made by or on behalf of the City in respect to the buildings, improvements and equipment, except as contained in the provisions of this Agreement.

Article 29 – Assignment, Sublease or Sale.

Section 29.1 – Assignment or Sublease by Service Provider. Except as explicitly authorized by this subsection, neither the Service Provider nor the Service Provider's successors or assigns shall assign, mortgage, pledge, or encumber this Agreement or sublet the Premises in whole or in part, or permit the Premises to be used or occupied by others, nor shall this Agreement be assigned or transferred by operation of law, without the prior, express, and written consent in writing of the

City in each instance.

The City acknowledges that the Historic Cocoa Village Association, Inc. intends to dissolve and assign its assets to the Greater Cocoa Community Partnership, Inc., which shall retire the fictitious name "Cocoa Main Street" and register a new fictitious name, "Historic Cocoa Village Main Street." Appropriate documentation from the Florida Department of State Division of Corporations as to approval of such transaction must be immediately submitted to the office of the City Manager. Additionally and to the extent necessary, updated insurance certificates required by this Agreement must be submitted to the City by the Greater Cocoa Community Partnership, Inc. Upon written acknowledgement of receipt by the City Manager of 1) all required insurance certificates, and 2) acceptable information from the Florida Department of State Division of Corporations documenting approval of the transaction, this Agreement shall be deemed assigned from the Greater Cocoa Community Partnership, Inc., d/b/a "Cocoa Main Street," and The Historic Cocoa Village Association, Inc. to the Greater Cocoa Community Partnership, Inc., d/b/a "Historic Cocoa Village Main Street," which shall become the Service Provider. Any consequent change regarding notice information addressed in Article 31 herein shall be immediately provided by the Service Provider to the City.

If this Agreement is assigned or transferred, or if all or any part of the Premises is sublet or occupied by anybody other than Service Provider, the City may, after default by the Service Provider, collect rent from the assignee, transferee, subtenant, or occupant, and apply the net amount collected to the rent reserved in this Agreement. However, any such assignment, subletting, occupancy, or collection shall not be deemed a waiver of any agreement or condition of this Agreement, or the acceptance of the assignee, transferee, subtenant, or occupant as the Service Provider. The Service Provider shall continue to be liable under this Agreement in accordance with its terms and conditions and shall not be released from the performance of the terms and conditions of this Agreement.

Section 29.2 – Assignment by City. City shall have the right to transfer, assign and convey, in whole or in part, any and all of its rights under this Agreement provided that the assignee and any assignee of the fee simple title of the Premises assume the obligations and duties of City arising under this Agreement.

Section 29.3 – Sale, Conveyance and Assignment. Nothing in this Agreement shall restrict the right of the City to sell, convey, assign, mortgage or otherwise deal with the Premises or the right of the City to assign its interest in this Agreement subject only to the rights of the Service Provider under this Agreement.

Article 30 – Surrender of Possession. The Service Provider shall, on the last day of the term, or on earlier termination and forfeiture of this Agreement, peaceably and quietly surrender and deliver the Premises to the City free of subtenancies, including all buildings, additions, and improvements constructed or placed on the Premises by the Service Provider, except moveable trade fixtures, all in good condition and repair. If the City so elects, any trade fixtures or personal property not used in connection with the operation of the Premises and belonging to the Service Provider, if not removed at the termination or forfeiture of this Agreement, shall be deemed abandoned and become the property of the City without any payment or offset for such fixtures or property. At the City's election, the City may remove such fixtures

or property from the Premises and store them at the risk and expense of the Service Provider. The Service Provider shall repair and restore all damage to the Premises caused by the removal of equipment, trade fixtures, and personal property.

Article 31 – 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 321-433-8660 with copy to Anthony A. Garganese, City Attorney Garganese, Weiss, D'Agresta & Salzman, P.A. P.O. Box 2873 Orlando, Florida 32802-2873 407-425-9566	Attn: Cocoa Main Street and The Historic Cocoa Village Association, Inc. 434 Delannoy Avenue Suite 203 Cocoa, FL 32922 (321) 631-9075

Any notice from one party to the other hereunder shall be in writing and shall be deemed duly served if delivered to the party being served or if mailed by registered or certified mail. Any notice shall be deemed to have been given at the time of delivery if the day of such delivery is not a Saturday, Sunday or statutory holiday. If the day of delivery is a Saturday, Sunday or statutory holiday, such notice shall be deemed to have been given on the next following day that is not a Saturday, Sunday or statutory holiday. If such notice is mailed, notice shall be deemed to have been given seven (7) calendar days after the date of mailing thereof unless the postal system has been disrupted by strikes or slow downs, in which case notice shall be given by personal delivery only. Either party shall have the right to designate by notice, in the manner above set forth, a different address or representative to which notices are to be mailed.

Article 32 – Miscellaneous.

Section 32.1 – Right to Refuse Admission and to Eject. The City reserves the right to refuse admission to the Premises, outside of ordinary business hours, to any person not known by the City or properly identified; to eject any person from the Premises whose conduct may tend to be harmful to the safety and interests of the Premises, the tenants and the property thereon; to close any part of the Premises during any riot or other commotion where person or property may be impaired or prior to, during, or after a Hurricane or other natural disaster.

Section 32.2 – Service Provider Not to Allow Lien or Encumbrances. The 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 Premises of which the Premises is a part. If any lien or

notice of lien on the account of any debt of the Service Provider shall be filed against the Premises or the property of which the Premises is a part, and the 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 Landlord in connection therewith shall be paid by the Service Provider.

Section 32.3 – Condition Precedent. All rights, obligations and liabilities of the City and the Service Provider shall be subject to satisfaction of the condition precedent of the complete execution of this Agreement by the Service Provider and the City Manager of the City of Cocoa.

Section 32.4 – Binding Effect. This Agreement shall bind and inure to the benefit of the respective heirs, personal representatives, successors, and assigns of the Parties.

Section 32.5 – 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.

Section 32.6 – Warranty of Professional Services & Compliance with Law. The Service Provider (for itself and any of its employees, contractors, volunteers, 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, and agents used to perform the Municipal Services) have sufficient experience 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. The Service Provider shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority during the performance of the Municipal Services.

Section 32.7 – 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, volunteers, partners, agents, and their employees are independent contractors and not employees of the City. No provision contained herein shall be construed as creating a joint venture between the Parties. 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, volunteers, partners, employees, or agents, during or after the performance of the Work under this Agreement.

Section 32.8 – Public Records. Pursuant to Section 119.0701, Florida Statutes and other applicable public records laws, Service Provider agrees that any records, documents, transactions,

writings, papers, letters, computerized information and programs, maps, books, audio or video tapes, films, photographs, data processing software, writings or other material(s), regardless of the physical form, characteristics, or means of transmission, of Service Provider related, directly or indirectly, to the services provided to the City under this Agreement and made or received pursuant to law or ordinance or in connection with the transaction of official business by the City, may be deemed to be a public record, whether in the possession or control of the City or the Service Provider. Said records, documents, transactions, writings, papers, letters, computerized information and programs, maps, books, audio or video tapes, films, photographs, data processing software, writings or other material(s), regardless of the physical form, characteristics, or means of transmission of Service Provider are subject to the provisions of Chapter 119, Florida Statutes, and may not be destroyed without the specific written approval of the City's designated custodian of public records.

IF SERVICE PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SERVICE PROVIDER'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, 65 STONE ST., COCOA, FLORIDA 32922.

Service Provider is required to and agrees to comply with public records laws. Service Provider shall keep and maintain all public records required by the City to perform the services as agreed to herein. Service Provider shall provide the City, upon request from the City Clerk, copies 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 by law. Service Provider shall 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. Upon completion of the Agreement, Service Provider shall transfer to the City, at no cost, all public records in possession of the Service Provider, provided the transfer is requested in writing by the City Clerk. Upon such transfer, Service Provider shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. However, if the City Clerk does not request that the public records be transferred, the Service Provider shall continue to keep and maintain the public records upon completion of the Agreement and shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City Clerk, in a format that is compatible with the information technology systems of the City. Should the City not possess public records relating to this Agreement which are requested to be inspected or copied by the City or any other person, the City shall immediately notify Service Provider of the request and the Service Provider shall then provide such records to the City or allow the records to be inspected or copied within a reasonable time. If the Service Provider does not comply with a public records request, the City may enforce this Section to the extent permitted by law. Service Provider acknowledges that if Service Provider does not provide the public records to the City within a reasonable time, Service Provider may be subject to penalties under Section 119.10, Florida Statutes. Service Provider acknowledges that if a civil action is filed against Service Provider to compel production of public records relating to this Agreement, the court may assess and award against Service Provider the reasonable costs of enforcement, including reasonable attorney fees. All public records in connection with this Agreement shall, at any and all reasonable times during the normal business hours of the Service

Provider, be open and freely exhibited to the City for the purpose of examination, audit, or otherwise. Failure by Service Provider to grant such public access and comply with public records laws and/or requests shall be grounds for immediate unilateral cancellation of this Agreement by the City upon delivery of a written notice of cancellation. If Service Provider fails to comply with this Section, and the City must enforce this Section, or the City suffers a third party award of attorney's fees and/or damages for violating Chapter 119, Florida Statutes, due to Service Provider's failure to comply with this Section, the City shall collect from Service Provider prevailing party attorney's fees and costs, and any damages incurred by the City, for enforcing this Section against Service Provider. And, if applicable, the City shall also be entitled to reimbursement of all attorneys' fees and damages which the City had to pay a third party because of Service Provider's failure to comply with this Section. The terms and conditions set forth in this Section shall survive the termination of this Agreement.

Section 32.9 – Audit and Inspections. All Service Provider's records with respect to the providing of Municipal Services under 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. Failure of the Service Provider to comply with the above audit requirements will constitute a material breach of this Agreement.

Section 32.10 – 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; the Age and Discrimination Act of 1975; Executive Order 11063; and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

Section 32.11 – 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.

Section 32.12 – 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.

Section 32.13 – 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.

Section 32.14 – Attorney's Fees. Should any litigation arise concerning this Agreement between

the Parties, the Parties agree to bear their own costs and attorney's fees, whether at settlement, trial or on appeal.

Section 32.15 – Headings. All headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

Section 32.16 – Waiver. Any waiver by City of any breach or violation of Service Provider's obligations under this Agreement shall not be construed as a continuing waiver or consent to any subsequent breach or violation.

Section 32.17 – Corporate Representations. Service Provider makes the following representations to City:

A. 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.

B. 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, if requested by the City, a copy to the City of a corporate certificate of good standing provided by the State of Florida prior to, or any time after, the execution of this Agreement.

Section 32.18 – City's Right of Inspection. In addition to any rights of inspection of the City in relation to the occupancy of the Premises by the Service Provider as a tenant, the City is hereby granted the right of entry onto Service Provider's property used to perform the Municipal Services for purposes of determining Service Provider's compliance with this Agreement. The Service Provider hereby agrees to fully cooperate with the City in permitting the City to conduct said inspections.

Section 32.19 – Time of Performance/Term. Time is of the essence under this Agreement. Municipal Services provided by the Service Provider shall begin immediately upon execution of this Agreement.

Sections 32.8, 32.9, 16.1, 16.2 and 32.22 shall survive the termination of this agreement.

Section 32.20 – Assignment. Except as explicitly provided in Section 29.1, this Agreement shall not be assigned by the Service Provider unless agreed to in writing by the City.

Section 32.21 – No City Obligation for Future Obligations to the Service Provider. No provision in this Agreement shall be construed as requiring the City to provide a lessened or nominal rental amount or otherwise in exchange for Municipal Services, or shall otherwise obligate the City in any respect relating to the Service provider, in the future.

Section 32.22 – Sovereign Immunity. The City 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 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. Contractor agrees that City shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, City 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.

Article 33 – Recordation. This Agreement shall be recorded in the public records of Brevard County, Florida.

[***Remainder of page intentionally blank. 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: Carie Shealy

Print Name: Monica Arsenault

GREATER COCOA COMMUNITY PARTNERSHIP, INC. d/b/a "COCOA MAIN STREET"

By: Robyn K. Greene

Print name: ROBYN K. GREENE

Title: SECRETARY

Date: 7-26-19

WITNESS:

Print Name: Monica Arsenault

Print Name: Carie Shealy

THE HISTORIC COCOA VILLAGE ASSOCIATION, INC.,

By: Nancy Elliott

Print name: Nancy Elliott

Title: President

Date: 7/26/19

ATTEST:

Carie Shealy, City Clerk

CITY OF COCOA:

John A. Titkanich, Jr. 07/24/2019

John A. Titkanich, Jr., AICP, ICMA-CM
City Manager

Date

EXHIBIT A

SCOPE OF WORK

A. GENERAL OBLIGATIONS

1. The Service Provider shall partner with and support the City to fulfill, at a minimum, the community-based projects provided for hereunder in Section B.
2. The Municipal Services shall largely focus on the coordination and implementation of physical improvements to the City, as directed by the City.
3. In addition to the specific projects identified in Section B. hereunder, the Service Provider shall support other community beautification projects, provide volunteers in support of City-sponsored (leisure Services and otherwise) events and/or economic development initiatives.
4. The Service Provider shall supply all personnel necessary to provide the Municipal Services detailed herein.

B. SPECIFIC PROJECTS

1. The projects and obligations specified below in Section 2. will be provided by the Service Provider until a revised and Scope of Work is agreed upon by the Parties. The City and the Service Provider shall agree upon such revised Scope of Work on or before March 1, 2020. In accordance with the Municipal Services Agreement, the Municipal Services, as described in the Scope of Work, constitute a material term and condition of the Agreement. The failure of the parties to agree upon a revised Scope of Work on or before March 1, 2020 shall constitute a failure by the Service Provider to perform the Municipal Services, as determined by the City, and shall constitute a material breach of this Agreement and a cause for termination of the Agreement and surrender of the leased Premises as further provided for in the Municipal Services Agreement.

2. The following projects and obligations shall be provided by the Service Provider to the City:

   a. The Service Provider will provide to the City a promotional table at each of the Service Provider's upcoming events for the City to display any promotional events or materials.

   b. The Service Provider will include the City logo on all promotional materials for upcoming events of the Service Provider. The City shall have the right to review the Service Provider's promotional materials in advance of their release and the City may reject inclusion of the City logo thereon in its sole discretion.

   c. The Service Provider will help promote and collect items for the City's food, toy and school supply drives.

   d. The Service Provider will help plan and promote the "Hot Cocoa Holidays" events which occur in December 2019, which include but are not limited to the Holiday Craft Fair, Cocoa/Rockledge Holiday Parade, Cocoa Holiday Festival, and Taste of Cocoa events.

   e. The Service Provider will help to promote the City of Cocoa's City Government Week events in October 2019, which include but are not limited to an Open House at City Hall and a Touch-a-Truck event.

Prepared by:
Kristin Eick, Esq.
Garganese, Weiss, D'Agresta & Salzman, P.A.
111 N. Orange Ave., Suite 2000
Orlando, FL 32801

Return to:
Carie Shealy, City Clerk
City of Cocoa
65 Stone Street
Cocoa, Florida 32922

MUNICIPAL SERVICES AGREEMENT

THIS MUNICIPAL SERVICES AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2022, by and between the **CITY OF COCOA, FLORIDA,** a Florida municipal corporation ("City"), and **GREATER COCOA COMMUNITY PARTNERSHIP, INC.,** a Florida Not For Profit Corporation, d/b/a "Historic Cocoa Village Main Street," ("Service Provider") located at 434 Delannoy Ave, Suite #204, Cocoa, FL 32922 (collectively the "Parties").

RECITALS:

WHEREAS, the Greater Cocoa Community Partnership, Inc., is a bona-fide nonprofit 501(c)(3) corporation, the purpose of which is to enhance the community identity and heritage, foster a center of activity, and ensure economic stability for the heart of Cocoa through concentrated efforts of design, promotion, organization and economic revitalization;

WHEREAS, the City is the sole owner of the Porcher House, and leases portions of same to tenants for different business purposes;

WHEREAS, the Greater Cocoa Community Partnership, Inc., d/b/a/ "Historic Cocoa Village Main Street," has been a tenant of the Porcher House for the past several years and desires to continue to lease space at the Porcher House for the purpose of conducting its nonprofit association for community and special events;

WHEREAS, the Service Provider has requested that the City provide office space as identified herein for lease at the Porcher House a lease rate of $1.00 per year in exchange for the Municipal Services to be provided as detailed herein;

WHEREAS, the City Council has determined that the Municipal Services to be provided by Service Provider serve a municipal purpose and benefit the public health, safety, and welfare of the citizens of the City of Cocoa, and, in furtherance of this benefit, authorize said annual lease rate from the Service Provider, though monthly Common Area and Maintenance charges shall continue to be charged throughout the Agreement term, in exchange for the Municipal Services identified hereunder;

WHEREAS, the Parties desire to enter this Agreement defining their obligations relating to such Municipal Services, as well as their rights, duties, and liabilities relating to the rental of space at the

Porcher House.

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:

Article 1 – Recitals. The foregoing recitals are deemed to be true and accurate and are fully incorporated herein by this reference.

Article 2 – Definitions. For purposes of this Agreement, the following terms and words shall have the meaning ascribed to them, unless the context clearly indicates otherwise:

"Agreement" or "Contract" shall be used interchangeably and shall refer to this Agreement, as may be amended from time to time by mutual written agreement by the Parties, which shall constitute authorization for the Service Provider to provide the Municipal Services stated herein.

"City" is the City of Cocoa, Florida, a Florida municipal corporation.

"Effective Date" shall be August 1, 2022. The Agreement shall not be effective against any party until said date.

"Greater Cocoa Community Partnership, Inc." or "Service Provider" is the Greater Cocoa Community Partnership, Inc., a Florida nonprofit corporation and bona fide 501(c)(3) corporation, d/b/a/ "Historic Cocoa Village Main Street."

"Municipal Services" or "Work" shall be used interchangeably and shall refer to the performance of the services outlined in Article 5 of this Agreement.

"Premises" shall mean any office rental space within the Porcher House provided by the City and occupied by the Service Provider in accordance with this Agreement.

"Public Record" is as described in Section 119.011(12), *Florida Statutes.*

"Rent" or "Rental Amount" or "Nominal Rental Amount" shall mean the monies paid to the City by the Service Provider in accordance with Article 8 of this Agreement.

Article 3 – Term of Agreement. The Term of this Agreement shall commence on the Effective Date and shall continue in force and effect through July 31, 2023. The City shall have the option to renew this Agreement for up to two (2) additional one (1)-year terms upon mutual agreement by the Parties, which shall be in writing and executed by both Parties. The City Manager is herein authorized to execute renewals of this Agreement on behalf of the City.

Article 4 – Lease of Premises. In exchange for the Municipal Services provided to the City by the Service Provider, as further described in Article 5, the City agrees to lease the Premises to Service Provider in accordance with the lease provisions found elsewhere herein.

Article 5 – Engagement; Municipal Services. The City hereby engages the Service Provider and the

Service Provider agrees to perform the Municipal Services more particularly described on the Scope of Work attached as **Exhibit "A"** and incorporated herein. Specifically, the Service Provider shall supply any and all personnel necessary to provide the Municipal Services identified in the Scope of Work unless otherwise directed by the City.

Unless otherwise specifically agreed to in writing by the City, there shall be no additional consideration for the performance of the Municipal Services by the Service Provider aside from the nominal Rental Amount charged to the Service Provider, which nominal amount is authorized by the City in exchange for the Municipal Services provided in accordance with this Agreement.

Section 5.1 – Municipal Services a Material Term and Condition of Agreement. The Municipal Services constitute a material term and condition of the Agreement and the failure of the Service Provider to perform the Municipal Services, as determined by the City, constitutes a material breach of this Agreement and a cause for termination of the Agreement and surrender of the leased Premises as further provided for herein.

Section 5.2 – Submittal of Progress Reports. At the request of the City, Service Provider shall submit to the City a written progress report as to the status of all Municipal Services set forth in this Agreement. If the detail is not sufficient in the City Manager's reasonable discretion to permit the City to determine the Municipal Services performed or the manner in which it is being performed, the City may seek more detail from the Service Provider.

Article 6 – Leased Premises; Relocation of the Service Provider. The City does hereby lease, demise and let unto the Service Provider, and the Service Provider does hereby rent, lease, hire and take from the City, to have and to hold during the Term, subject to the terms and conditions of this Agreement, certain Premises within the Porcher House.

Such leased Premises shall consist of that portion of the property located at 434 Delannoy Avenue, Cocoa, Florida 32922, Offices #203 and #204. Office #203 is calculated at approximately 228 square feet, and Office #204 is calculated at approximately 276 square feet, such number being used to determine the common area maintenance charge.

The Parties agree that Offices #203 and 204 are considered to be premium office space as within the Porcher House. The Parties agree that, should another suitable office space (as determined by the City) within the Porcher House become available and the City have the availability to lease Offices #203 and 204 at the full lease rate, that City hereby reserves the right to, with proper notice, relocate the Service Provider to other office space within the Porcher House.

Article 7 – Use of Leased Premises.

Section 7.1 – Use. The Premises shall be used and occupied by Service Provider in the operation of its lawful trade or business as presently carried on by Service Provider, limited to general office activities, more particularly described as non-profit association(s), in a safe, careful and proper manner, so as not to contravene any present or future governmental laws, rules, regulations, policies, procedures or orders. If improvements are necessary to comply with any of the foregoing or with the requirements of insurance carriers, due solely to Service Provider's use of the Premises,

Service Provider shall be required to seek written approval from City prior to making the improvements and if approved, Service Provider shall pay the entire cost thereof.

Section 7.2 – Historic Preservation. Service Provider shall not use the Premises in any manner that disrupts the historic nature of the Porcher House through its use or alterations. This Agreement shall be subject to any historic preservation regulations and other requirements that are applicable to the Porcher House.

Section 7.3 – Nuisance. Service Provider shall not cause or maintain any nuisance in or about the Premises and the property thereon, 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.

Section 7.4 – Unlawful or Dangerous Activity. Service Provider shall neither use nor occupy the Premises or any part of the Premises for any unlawful, disreputable, or ultrahazardous 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 ultrahazardous use, take action to halt such activity.

Section 7.5 – Common Areas. Service Provider shall have use of common areas including parking areas, ways, exits, entrances, roadways, and rest rooms for the general use, in common, of Service Providers, their officers, agents, employees, and customers. However, the common area use cannot interfere with any of the City of Cocoa's operations and does not include any area on the first floor of the building.

Article 8 – Rent and Common Area and Maintenance Charges.

Section 8.1 – Annual Rental Amount. The City agrees to accept One Dollar and 00/100 ($1.00) per year from the Service Provider, due on or before August 1, 2022 and August 1 for any renewal term, respectively, as a nominal annual Rental Amount for the rental of the Premises.

Section 8.2 – Monthly Common Area and Maintenance (CAM) charges. Common Area and Maintenance (CAM) charges, shall be paid on a monthly basis, on or before the 1st of each month. Payments made after the 5th day of the month shall be subject to a ten percent (10%) late fee. Monthly CAM charges due shall be in equal installments of Forty-One Dollars and 56/100 ($41.56) for each month of this Agreement. Such monthly CAM charges due represent the collective amount due for both offices each month, which, separately are Nineteen Dollars and 07/100 ($19.07) for Office #203 and Twenty-Two Dollars and 49/100 ($22.49) for Office #204. Common area costs shall mean all sums expended by the City for the maintenance and operation of the common areas and property management fees incurred by the City and all increases in any such costs and expenses. Costs for maintenance, management, and operation of the common areas shall include, but not be limited to, the following: cleaning, sweeping, resurfacing and restriping; cleaning and/or treating exterior brick surfaces; cleaning exterior window surfaces; repainting; repairs to buildings and improvements; relandscaping; supplying directional signs and other markers; car stops; lighting, water, and other utilities; and other costs necessary in the City's

judgment for the maintenance and operation of the common areas, and any other charges, costs, and expenses that arise during the Term of this Agreement. This amount described above is subject to change based on circumstances unforeseen at the City's discretion.

Section 8.3 – Sales tax. The amounts due as provided for above do not include sales tax, inasmuch as the Service Provider, at the time of executing this Agreement, is a non-profit, tax-exempt corporation and thus provides that such sales tax is inapplicable. Should the Service Provider lose its status as a non-profit, tax-exempt corporation, at any time during the Term of this Agreement, applicable sales tax shall be calculated and imposed as of the date which the Service Provider no longer enjoys such status. The Service Provider shall give notice to the City of any change in its non-profit, tax-exempt status within five (5) days thereof, for the purpose of calculation, imposition and payment of applicable sales tax.

Section 8.4 – Payments to the City – General. All amounts payable by the Service Provider to the City under this Agreement, whether Rent or CAM charges, or any other payment, shall be payable when due, without deduction or set-off, in U.S. Dollars made payable to The City of Cocoa, Attention: Finance, at the address of, 65 Stone Street, Cocoa, Florida 32922, or to such other person or at such other address as City may from time to time designate in writing.

Section 8. 5 – Late Fee and Costs. The Service Provider shall pay the City a late charge equal to ten percent (10%) of any payment amount if payment is not tendered and received within five (5) days of its due date. Such payment shall be submitted as described in Section 8.4 above. The Service Provider shall indemnify the City against all costs and charges (including legal fees) lawfully and reasonably incurred in enforcing payment thereof, and in obtaining possession of the Premises after default of the Service Provider or upon expiration or earlier termination of the Term of this Agreement, or in enforcing any covenant, proviso or agreement of Service Provider herein contained.

Article 9 – Use of City's Office Equipment. The Service Provider shall have no right to share in the use of City's office equipment.

Article 10 – Property Management. The Service Provider acknowledges that the City may retain a management company ("Management Company") to manage and operate the property described in this Agreement. The Service Provider hereby agrees not to interfere with the City or the Management Company's duties and responsibilities under the Management Agreement. This Agreement shall be subject to any applicable provision in any future Management Agreement and any provision of this Agreement that conflicts with the Management Agreement shall be null and void and the applicable provision of the Management Agreement shall be substituted for the conflicting Agreement provision as if that provision was originally made a part of this Agreement.

Article 11 – Maintenance, Repair, Alterations and Renovations by the City.

Section 11.1 – Maintenance, Repair and Replacement. The City shall be responsible for and shall expeditiously maintain and repair the foundations, structures and roofs of the Premises in their condition as they exist at the execution of this Agreement, less reasonable wear and tear over the Term, provided that:

A. If all or part of the Premises is damaged or impaired, subject to Article 20 below, the City shall have a reasonable time in which to complete the necessary repair or replacement;

B. The City shall use reasonable diligence in carrying out its obligations under this Article 11, but shall not be liable under any circumstances for any consequential damage to any person or property for any failure to do so; and

C. Nothing contained herein shall be in derogation of the provisions of Article 20 of this Agreement regarding Destruction of the Premises.

D. Under no circumstances shall the City be liable to the Service Provider for any damage suffered by the Service Provider, its employees, agents, customers or invitees as a result of moisture or water inside the Premises whether caused by natural disasters and other acts of God, leaks in the structure or in the plumbing.

Section 11.2 – Alterations by the City. City may from time to time make repairs, replacements, changes or additions to the structure, systems, facilities and equipment in the Premises where necessary to serve the Premises; provided, however, that in so doing the City shall not disturb or interfere with the Service Provider's use of the Premises and operation of its business any more than is reasonably necessary under the circumstances and shall repair any damage to the Premises caused thereby.

Section 11.3 – Renovation by the City. In the event the City determines it is necessary to renovate the Premises of the Service Provider, and said renovation may significantly impact the Service Provider's use of the Premises, the City may do so upon not less than sicty (60) calendar days notice. If deemed necessary by the City, the Service Provider shall relocate promptly upon the request of City, at the Service Provider's expense. During any period of City renovation where the Service Provider was required to relocate, there will be a rent abatement. Upon completion of renovation, the Service Provider will be required to return to the Premises and adhere to all terms of this Agreement.

Section 11.4 – Access by City. The Service Provider shall permit the City or the City's agents to enter the Premises at all reasonable hours, including outside normal business hours, and, during normal business hours where such will not unreasonably disturb or interfere with the Service Provider's use of the Premises and operation of its business, to examine or inspect the Premises, to provide services, to make repairs, replacements, changes or alterations as set out in this Agreement and/or that the Service Provider may neglect or refuse to make in accordance with the provisions of this Agreement, and to take such steps as the City may deem necessary for the safety, improvement or preservation of the Premises or the building. The City shall, whenever possible, consult with or give reasonable notice to the Service Provider prior to such entry, but no such entry shall constitute an eviction or entitle the Service Provider to any abatement of Rent.

Article 12 – Maintenance, Repair, Alterations and Improvements by the Service Provider.

Section 12.1 – Condition of Premises. Except to the extent that the City is specifically responsible under Article 11 of this Agreement, the Service Provider shall maintain the Premises

and all improvements therein in their condition, as they exist at the execution of this Agreement, less reasonable wear and tear, at the Service Provider's sole cost and expense.

Section 12.2 – Alterations by Service Provider. The Service Provider may from time to time at the Service Provider's own expense make changes, additions and improvements in the Premises to better adapt the same to its business, provided that any such change, addition or improvement shall:

A. Be performed in a satisfactory manner and shall not weaken or impair the structural strength, or lessen the value, of the building or Premises, or change the purposes for which the building, or any part of the building, may be used; and

B. Not compromise the historic nature of the Porcher House, as determined by the City; and

C. Comply with the requirements of any governmental authority having jurisdiction; and

D. Equal or exceed the then current standard for the building; and

E. Require the prior written consent of City; and

F. Require the Service Provider to obtain appropriate builder's risk or other additional insurance coverages or bonds during the construction, if applicable, and upon the City's request.

Should the Service Provider make changes, additions and improvements without complying with the provisions of this Section, the Service Provider shall be fully liable to the City to restore the Premises to the same or better condition that existed prior to the unauthorized changes, additions and improvements. If the Service Provider fails to make the restorations within the time prescribed by the City, the City may, at its discretion, immediately terminate this Agreement, without penalty, and restore the Premises at the Service Provider's sole expense.

Section 12.3 – Trade Fixtures and Personal Property. The Service Provider may install in the Premises its usual trade fixtures and personal property in a proper manner, provided that no such installation shall interfere with or damage the mechanical or electrical systems or the structure of the building. If the Service Provider is not then in default hereunder, trade fixtures and personal property installed in the Premises by the Service Provider may be removed from the Premises:

A. From time to time in the ordinary course of the Service Provider's business or in the course of reconstruction, renovation, or alteration of the Premises by the Service Provider; and

B. During a reasonable period prior to the expiration of the Term;

provided that the Service Provider promptly repairs at its own expense any damage to the Premises or building resulting from such installation and removal.

Article 13 – Taxes.

Section 13.1 – Service Provider's Taxes. The Service Provider shall pay on or before the last day on which payment may be made without penalty or interest, all applicable taxes, assessments, or other governmental charges that shall or may during the Agreement Term be imposed on, or arise in connection with the use of, the Premises or any part of the Premises including, but not limited to:

A. Florida state sales tax, if applicable, and all other applicable taxes, including governmental leasehold intangible personal property taxes, other than income taxes and taxes of a similar nature, due on rentals, including city, state, county and federal taxes that may be in effect from time to time; and

B. Taxes associated with operations at, occupancy of, or conduct of business in or from the Premises by or with the permission of the Service Provider; and

C. Taxes on fixtures or personal property in the Premises which do not belong to the City; and

D. It is the intention of the Parties that the rent specified in this Agreement is net rental, and the City shall receive such rent free from all taxes that are made payable by the Service Provider.

Section 13.2 – Notice of Payment of Taxes. The Service Provider shall, within seven (7) calendar days after the time provided for the payment of any applicable tax or other governmental charge by the Service Provider, produce and exhibit to the City satisfactory evidence of the payment.

Article 14 – Utilities. The City will be responsible for all electrical, garbage, water and sewer charges, however, will not be responsible or liable to the Service Provider for disruptions in service due to no fault of the City. All applications and connections for other necessary utility services on the Premises, such as telephone and internet service, shall be made in the name of the Service Provider only, with prior written consent of the City. The Service Provider shall be solely liable for utility charges, excluding electric, garbage, water and sewer, as they become due.

Article 15 – Insurance.

Section 15.1 – Insurance Requirements of the Service Provider relating to the Leased Premises. During the Term, the Service Provider shall maintain at its own expense:

A. Fire insurance with extended coverage and water damage insurance in amounts sufficient to fully cover Service Provider alterations and all property in the Premises which is not owned by City; and

B. Commercial General Liability or Businessowners' Liability insurance against claims for death, personal injury and property damage in or about the Premises, in amounts which are from time to time acceptable to a prudent tenant in the

community in which the Premises is located, but not less than One Million Dollars ($1,000,000.00) combined single limit, in respect of each occurrence. Coverage shall include:

1. Premises and Operation.
2. Independent Contractors.
3. Broad Form Property Damage.
4. Broad Form Contractual Coverage applicable to this specific Lease, including any hold harmless and/or indemnification agreement.
5. Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.
6. Fire damage legal liability.

C. Business property coverage for loss of alterations to the Premises and Service Provider's equipment and facilities for no less than One Hundred Percent (100%) of the full replacement cost of the covered property; and

D. Workers' Compensation Insurance adequate in at least such amounts as are required by law, except where exempt by Florida Law, and Employer's Liability Insurance in an amount of $1,000,000 each accident and disease; and

E. As applicable, if Service Provider owns vehicles for transport to and from the facility, automobile liability coverage with coverage limit of not less than $500,000 combined single limit bodily injury and minimum $500,000 property damage as the combined single limit for each occurrence to protect the Service Provider 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 Service Provider or by anyone directly or indirectly employed by the Service Provider; and

All insurance required to be maintained by Service Provider must be issued by carriers having a Best's Rating of A or better, and a Best's Financial Size Category of VIII, or better, and/or Standard & Poor Insurance Solvency Review A-, or better, and authorized to engage in the business of insurance in the State of Florida. All policies for insurance required pursuant to this Article 15 shall name the City and the Service Provider as the insureds as their respective interests may appear, excluding worker's compensation policies, shall contain standard mortgagee clauses in favor of the holders of any mortgages on the City's property, shall be in a form and with an insurer reasonably acceptable to the City, shall require at least thirty (30) 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. Service Provider shall promptly deliver to City certified copies or other evidence of such policies prior to commencement of this Agreement and thereafter at least 30 days prior to the expiration of current policies or on replacement of each certified coverage and within 10 days of City's request for an updated certificate. The insurance requirements set forth herein shall not relieve or limit the liability of the Service Provider. The

City does not in any way represent that these types or amounts of insurance are sufficient or adequate to protect the Service Provider's interest or liabilities, but are merely minimums.

Section 15.2 – Insurance Requirements of the Service Provider Relating to the Municipal Services. During the Term of this Agreement, Service Provider shall also maintain, at its own expense, the following insurance coverage:

A. *Worker's compensation insurance* in accordance with the applicable provisions of Florida law, except where exempt under Florida.

B. *Professional liability insurance* for all corporate officers and directors of Service Provider with a combined single limit of $1,000,000 for each occurrence and $1,000,000 in the aggregate.

C. *Commercial general liability insurance* with a combined single limit of $1,000,000 for each occurrence and $1,000,000 in the aggregate.

All policies for insurance required herein shall name the City and the 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 thirty (30) 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. The Service Provider shall provide a copy of all insurance certificates to the City. Should the Service Provider fail to provide the insurance certificates or fails to obtain coverage in the aforementioned amounts, the City shall have the right to terminate this Agreement if the Service Provider unreasonably delays compliance. If requested by the City, the Service Provider shall from time to time promptly deliver to the City certified copies 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. The insurance requirements set forth herein shall not relieve or limit the liability of the Service Provider. The City does not in any way represent that these types or amounts of insurance are sufficient or adequate to protect the Service Provider's interest or liabilities, but are merely minimums.

Section 15.3 – Personal Property. All personal property housed or placed at the Premises shall be at the risk of Service Provider, and the City shall have no liability for any damage or loss to any personal property located thereon for any cause whatsoever. The Service Provider agrees and understands that the City does not and shall not carry liability, fire, or theft insurance on the operation of the Premises to cover the Service Provider's interest or personal or business property kept therein. The City and Service Provider specifically acknowledge that the Service Provider has declined to obtain flood insurance sufficient to fully cover Service Provider alterations and all property in the Premises which is not owned by the City. Accordingly, the Service Provider agrees to waive all claims for personal injury or death and property damage or loss from whatever causes arising from flooding of the Premises and further agrees to indemnify and save harmless the City, its elected officials, officers, employees, agents and servants from any liability and expense, including reasonable attorney's fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for personal injury, property damage, equitable relief, or loss of use, arising directly or indirectly out of or in connection with flooding of the Premises.

Section 15.4 – Contractors. Service Provider shall require all contractors performing work within the Premises to procure and maintain workers' compensation, commercial general liability, and business auto liability. Both Service Provider and City shall be listed as additional insureds on all general liability policies of all such contractors.

Article 16 – Indemnification and Hold Harmless.

Section 16.1 – Indemnification and Hold Harmless Relating to Leased Premises. The Service Provider shall hold harmless and indemnify the City against any and all expenses, liabilities, and claims of every kind, including reasonable attorneys' fees of attorneys selected by the City, and related expenses through all appellate proceedings, by or on behalf of any person or entity arising out of either: (1) the use, occupation, management, maintenance, repair, construction, or control of the Premises by Service Provider or its agents, servants, employees, customers, patrons, or invitees; (2) any act or omission of the Service Provider or its agents, servants, employees, customers, patrons, or invitees arising out of this Agreement, including, but not limited to, those claims arising in conjunction with use of the facility, improper, or defective maintenance, or installation; (3) a failure by the Service Provider to perform any of the terms or conditions of this Agreement; (4) any injury or damage happening on or about the Premises; (3) failure to comply with any law of any governmental authority; or (5) any mechanic's lien or security interest filed against the Premises or equipment, materials, or alterations of buildings or improvements on the Premises, unless such claims are a result of the City's sole negligence or willful misconduct.

The Service Provider specifically assumes potential liability for actions brought by the Service Provider's own employees against the City and, solely for the purpose of this indemnification and defense, the Service Provider 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 Service Provider recognizes the broad nature of this indemnification and hold harmless clause, as well as the provision of a legal defense to the City when necessary, 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, legal defense and hold harmless contractual obligations in accordance with the laws of the State of Florida. This Section shall survive the termination of this Agreement. Compliance with any insurance requirements required elsewhere within this Agreement shall not relieve the Service Provider of its liability and obligation to defend, hold harmless and indemnify the City as set forth in this Section of the Agreement. Nothing herein shall be construed to extend the City's liability beyond that provided in Section 768.28, Florida Statutes.

Section 16.2 – Indemnification and Hold Harmless Relating to the Municipal Services. For all Municipal Services and Work performed pursuant to this Agreement, the Service Provider shall 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, and agents performance of the

Municipal Services and Work being performed under this Agreement; (b) Service Provider's, and its employees, partners, contractors, volunteers, and agents failure to comply with the provisions of any federal, state, or local laws, ordinance, or regulations applicable to Service Provider and its employees, partners, contractors, volunteers, and agents performance under this Agreement; and (c) any fraud and misrepresentation conducted by Service Provider and its employees, partners, contractors, volunteers, and agents. Service Provider shall not indemnify City against the sole negligence, gross negligence or willful misconduct of City or its employees or agents.

The Service Provider specifically assumes potential liability for actions brought by the Service Provider's own employees against the City and, solely for the purpose of this indemnification and defense, the Service Provider 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.

Nothing in this Agreement is intended to serve as a waiver of sovereign immunity by the City. Nothing in this Agreement shall be construed as consent by the City to be sued by third parties in any matter arising out of this Agreement or any other contract. 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 and officers which may result from the Municipal Services and Work performed under this Agreement whether the Municipal Services and Work are performed by the Service Provider, its employees, contractors, partners, volunteers, and agents or anyone directly or indirectly employed by the Service Provider. In all events 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 Section shall survive the termination of this Agreement.

Article 17 – Transfers by the City. Nothing in this Agreement shall restrict the right of the City to sell, convey, assign, mortgage or otherwise deal with the City's property or the right of the City to assign its interest in this Agreement subject only to the rights of the Service Provider under this Agreement.

Article 18 – Default or Breach. Each of the following events shall constitute a default or breach of this Agreement by the Service Provider:

A. If the Service Provider fails, as determined by the City, to perform the Municipal Services as described in Article 5.

B. If the Service Provider, or any successor or assignee of the Service Provider while in possession, shall file a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act, or shall voluntarily take advantage of any such act by answer or otherwise, or shall make an assignment for the benefit of creditors.

C. If the Service Provider shall fail to pay City any rent (inclusive of CAM charges) or additional rent when the rent shall become due and shall not make the payment within five (5) calendar days of its due date.

D. If the Service Provider shall fail to perform or comply with any of the conditions of this Agreement and if the nonperformance shall continue for a period of seven (7) calendar

days after notice of nonperformance given by the City to the Service Provider or, if the performance cannot be reasonably had within the seven (7) calendar day period, Service Provider shall not in good faith have commenced performance within the seven (7) calendar day period and shall not diligently proceed to completion of performance.

E. If the Service Provider shall vacate or abandon the Premises.

F. If this Agreement or the estate of Service Provider under this Agreement shall be transferred to or shall pass to or devolve on any other person or party, except in the manner permitted in this Agreement.

G. If the Service Provider fails to take possession of the Premises on the term commencement date, or within seven (7) calendar days after notice that the Premises are available for occupancy, if the term commencement date is not fixed in this Agreement or shall be deferred as provided in Agreement.

Notwithstanding anything else to the contrary herein, Service Provider and City expressly waive the statutory notice requirements of Section 83.20, Florida Statutes, and agree that all notices of default shall be required to be given solely as provided for in this Agreement.

Article 19 – Effect of Service Provider Default or Breach. In the event of any default or breach under this Agreement, including but not limited to the events as set forth in Article 18, the rights of the City shall be as follows:

A. The City shall have the right to cancel and terminate this Agreement, as well as all of the right, title, and interest of Service Provider under this Agreement, provided, however, that the City shall first deliver to Service Provider written notice of the default and provide not less than seven (7) calendar days' opportunity to cure the default. On expiration of the time fixed in the notice, this Agreement and the right, title, and interest of the Service Provider under this Agreement, shall terminate in the same manner and with the same force and effect, except as to the Service Provider's liability, as if the date fixed in the notice of cancellation and termination were the end of the term originally set forth in this Agreement.

B. The City may elect, but shall not be obligated, to make any payment required of Service Provider in this Agreement or comply with any agreement, term, or condition required by this Agreement to be performed by Service Provider. The cost of such payment or action to comply shall be reimbursed to City by the Service Provider. The City shall have the right to enter the Premises for the purpose of correcting or remedying any such default and to remain until the default has been corrected or remedied, but any expenditure for the correction by the City shall not be deemed to waive or release the default of the Service Provider or the right of City to take any action as may be otherwise permissible under this Agreement in the case of any default, including holding the Service Provider responsible for any City expenditure.

C. The City may reenter the Premises immediately and remove the property and personnel of Service Provider, and store the property in a public warehouse or at a place selected by City, at the expense of Service Provider, except to the extent that a court order pursuant to

an action or proceeding at law is required pursuant to section 83.05, Florida Statutes. The City shall not be entitled to "lock Service Provider out" or utilize any other self-help measures to dispossess Service Provider absent a court order, except as permitted by section 83.05, Florida Statutes. After reentry City may terminate the Agreement on giving seven (7) calendar days' written notice of termination to Service Provider. Without the notice, reentry will not terminate this Agreement. On termination, City may recover from Service Provider all damages proximately resulting from the breach, including the cost of recovering the Premises and the value of the balance of this Agreement over the reasonable rental value of the Premises for the remainder of the Agreement term, which sum shall be immediately due City from Service Provider.

D. After reentry, City may relet the Premises or any part of the Premises for any term without terminating this Agreement, at the rent and on the terms as City may choose. City may make alterations and repairs to the Premises. The duties and liabilities of the Parties if the Premises are relet as provided in this section shall be as follows:

i. In addition to the Service Provider's liability to the City for breach of the Agreement, the Service Provider shall be liable for all expenses of the reletting, for the alterations and repairs made, and for the difference between the rent received by City under the new Agreement and the rent installments that are due for the same period under this Agreement.

ii. The City shall have the right, but shall not be required, to apply the rent received from reletting the Premises to: (1) reduce the indebtedness of the Service Provider to the City under this Agreement, not including indebtedness for rent; (2) expenses of the reletting and alterations and repairs made; (3) rent due under this Agreement; or (4) to payment of future rent under this Agreement as it becomes due.

iii. If the new tenant does not pay a rent installment promptly to City, and the rent installment has been credited in advance of payment to the indebtedness of the Service Provider other than rent, or if rentals from the new tenant have been otherwise applied by City as provided for in this section and during any rent installment period are less than the rent payable for the corresponding installment period under this Agreement, the Service Provider shall pay City the deficiency, separately for each rent installment deficiency period, and before the end of that period. The City may at any time after a reletting terminate this Agreement for the breach on which the City had based the reentry and subsequently relet the Premises.

iv. After reentry, the City may procure the appointment of a receiver to take possession and collect rents and profits of the business of the Service Provider. The receiver may carry on the business of the Service Provider and take possession of the personal property used in the business of the Service Provider, including inventory, trade fixtures, and furnishings, and use them in the business without compensating the Service Provider. Proceedings for the appointment of a receiver by the City, or the appointment of a receiver and the

conduct of the business of the Service Provider by the receiver, shall not terminate and forfeit this Agreement unless the City has given written notice of termination to the Service Provider as provided in this Agreement.

Article 20 – Destruction of Premises. In the event of a partial or total destruction of the Premises by no fault of the Service Provider during the term of this Agreement as a result of fire, earthquake, accident or other casualty, City may, but shall not be obligated to, promptly repair such damage, provided the repairs can be made within a reasonable number of days under the laws and regulations of applicable governmental authorities and the cost of repairs are budgeted and appropriated by the City of Cocoa City Council. Upon such partial or total destruction and election of the City Council to repair such destruction, the Agreement shall neither annul nor be void, except that Service Provider shall be entitled to a proportionate reduction of rent while the repairs are being made, any proportionate reduction being based on the extent to which the making of repairs shall interfere with the business carried on by Service Provider on the Premises. In the event that City does not elect to make repairs or is unable to restore the Premises within a reasonable number of days, this Agreement may be terminated at the option of either party and rent abated as of the date of the total or partial destruction. If total or partial destruction occurs as a result of an act of Service Provider or Service Provider's employees, agents, customers or invitees, only City shall have the right of termination, and no reduction in rent shall be made.

Article 21 – Condemnation. Rights and duties in the event of condemnation subsequent to the effective date of this Agreement are as follows:

A. If the whole of the Premises shall be taken or condemned by any competent authority for any public or quasi-public use or purpose or in the event of a partial taking in which the balance of the Premises remaining cannot suitably be used by Tenant for its purposes herein stated, this Agreement shall cease and terminate as of the date on which title shall vest in that authority, and the rent reserved under this Agreement shall be apportioned and paid up to that date.

B. If only a portion of the Premises shall be taken or condemned and the balance of the Premises can be suitably used by the Service Provider for its purposes herein stated, this Agreement shall not cease or terminate, but the rent payable after the date on which the Service Provider shall be required to surrender possession of such portion shall be reduced in proportion to the decreased use suffered by the Service Provider as the Parties may agree.

C. In the event of any taking or condemnation in whole or in part, the entire resulting award of compensation or proceeds shall belong to the City without any deduction from such award for the value of the unexpired term of this Agreement or for any other estate or interest in the Premises now or later vested in the Service Provider. The Service Provider assigns to City all Service Provider's right, title, and interest in any and all such awards and waives any claims therefor.

Article 22 – Subordination. This Agreement and all rights of the Service Provider under this Agreement shall be subject and subordinate to the lien of any and all mortgages or requirements of any historic preservation grant that may now or in the future affect the Premises, or any part of the Premises, and to any and all renewals, modifications, or extensions of any such mortgages or grants. The Service Provider

shall on demand execute, acknowledge, and deliver to the City, without expense to the City, any and all instruments that may be necessary or proper to subordinate this Agreement and all rights in this Agreement to the lien of any such mortgage(s) and grant(s). If the Service Provider shall fail at any time to execute, acknowledge, and deliver any such subordination instrument, the City, in addition to any other remedies available in consequence of such failure, may execute, acknowledge, and deliver the subordination instrument as the Service Provider's attorney-in-fact and in the Service Provider's name. The Service Provider irrevocably makes, constitutes, and appoints the City, its successors and assigns, the Service Provider's attorney-in-fact for that purpose.

Article 23 – Access to Premises; Sign Posted by the City. The Service Provider shall permit the City or its agents to enter the Premises at all reasonable hours to inspect the Premises, make repairs that Service Provider may neglect or refuse to make in accordance with the provisions of this Agreement, and also to show the Premises to prospective buyers, renters, or government officials in the course of the City of Cocoa's municipal functions. At any time, within three (3) months prior to expiration of the term of this Agreement, the City may show the Premises to persons wishing to rent them. The Service Provider shall, within three (3) months prior to expiration of the term of this Agreement, permit the usual notices of "For Rent" and "For Sale" to be placed on the Premises and to remain on the Premises without hindrance and molestation.

Article 24 – Easements, Agreements, or Encumbrances. The Parties shall be bound by all existing easements, agreements, and encumbrances, which may or may not be of record relating to the Premises, and the City shall not be liable to the Service Provider for any damages resulting from any action taken by a holder of an interest pursuant to the rights of that holder.

Article 25 – Quiet Enjoyment. Subject to the terms and conditions of this Agreement, the City warrants that the Service Provider shall be granted peaceable and quiet enjoyment of the Premises free from any eviction or interference by the City if the Service Provider pays the rent and other charges provided in this Agreement, and otherwise fully and punctually performs the terms and conditions, in relation to the Municipal Services or otherwise, imposed on the Service Provider by this Agreement.

Article 26 – Liability of the City. The Service Provider shall be in exclusive control and possession of the Premises, and the City shall not be liable for any injury or damages to any property or to any person on or about the Premises or for any injury or damage to any property of the Service Provider. The provisions of this Agreement permitting the City to enter and inspect the Premises are made to insure that Service Provider is in compliance with the terms and conditions of this Agreement and to insure that the Service Provider makes repairs that the Service Provider has failed to make. The City shall not be liable to the Service Provider for any entry on the Premises for inspection purposes.

Article 27 – Rent abatement. No abatement, diminution, or reduction of rent shall be claimed or allowed to the Service Provider or any person claiming under the Service Provider under any circumstances, whether for inconvenience, discomfort, interruption of business, or otherwise, arising from the making of alterations, improvements, or repairs to the Premises, because of any governmental laws, or arising from and during the restoration of the Premises after their destruction or damage by fire or other cause, or the taking or condemnation of a portion only of the Premises, except as provided in Articles 11, 20 and 21.

Article 28 – Representations by City. At the commencement of the term, the Service Provider shall accept the Premises and improvements and any equipment in their existing condition and state of repair,

and the Service Provider agrees that no representations, statements, or warranties, express or implied, have been made by or on behalf of the City in respect to the buildings, improvements and equipment, except as contained in the provisions of this Agreement.

Article 29 – Assignment, Sublease or Sale.

Section 29.1 – Assignment or Sublease by Service Provider. Except as explicitly authorized by this subsection, neither the Service Provider nor the Service Provider's successors or assigns shall assign, mortgage, pledge, or encumber this Agreement or sublet the Premises in whole or in part, or permit the Premises to be used or occupied by others, nor shall this Agreement be assigned or transferred by operation of law, without the prior, express, and written consent in writing of the City in each instance.

If this Agreement is assigned or transferred, or if all or any part of the Premises is sublet or occupied by anybody other than Service Provider, the City may, after default by the Service Provider, collect rent from the assignee, transferee, subtenant, or occupant, and apply the net amount collected to the rent reserved in this Agreement. However, any such assignment, subletting, occupancy, or collection shall not be deemed a waiver of any agreement or condition of this Agreement, or the acceptance of the assignee, transferee, subtenant, or occupant as the Service Provider. The Service Provider shall continue to be liable under this Agreement in accordance with its terms and conditions and shall not be released from the performance of the terms and conditions of this Agreement.

Section 29.2 – Assignment by City. City shall have the right to transfer, assign and convey, in whole or in part, any and all of its rights under this Agreement provided that the assignee and any assignee of the fee simple title of the Premises assume the obligations and duties of City arising under this Agreement.

Section 29.3 – Sale, Conveyance and Assignment. Nothing in this Agreement shall restrict the right of the City to sell, convey, assign, mortgage or otherwise deal with the Premises or the right of the City to assign its interest in this Agreement subject only to the rights of the Service Provider under this Agreement.

Article 30 – Surrender of Possession. The Service Provider shall, on the last day of the term, or on earlier termination and forfeiture of this Agreement, peaceably and quietly surrender and deliver the Premises to the City free of subtenancies, including all buildings, additions, and improvements constructed or placed on the Premises by the Service Provider, except moveable trade fixtures, all in good condition and repair. If the City so elects, any trade fixtures or personal property belonging to the Service Provider, if not removed at the termination or forfeiture of this Agreement, shall be deemed abandoned and become the property of the City without any payment or offset for such fixtures or property. At the City's election, the City may remove such fixtures or property from the Premises and store them at the risk and expense of the Service Provider. The Service Provider shall repair and restore all damage to the Premises caused by the removal of equipment, trade fixtures, and personal property. If, without City's express written consent, Service Provider or any other person claiming for, through, by or under Service Provider, shall hold the Premises or any part thereof for any period of time after the same should have been surrendered under the provisions of this Agreement, then Service Provider and such other person shall be subject to eviction or removal, forcible or otherwise, as allowed by law, it being understood that City shall at all

times have available all remedies, rights and proceedings available to City with respect to the collection of rents or the repossession of the Premises under the laws of the State of Florida.

Article 31 – 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 321-433-8660 with copy to Anthony A. Garganese, City Attorney Garganese, Weiss, D'Agresta & Salzman, P.A. P.O. Box 2873 Orlando, Florida 32802-2873 407-425-9566	Attn: Historic Cocoa Village Main Street 434 Delannoy Avenue Suite 204 Cocoa, FL 32922 (321) 631-9075

Any notice from one party to the other hereunder shall be in writing and shall be deemed duly served if delivered to the party being served or if mailed by First Class and registered or certified mail. 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 by First Class and Certified or Registered mail, on the third business day after mailing. Either party shall have the right to designate by notice, in the manner above set forth, a different address to which notices are to be mailed.

Article 32 – Miscellaneous.

Section 32.1 – Right to Refuse Admission and to Eject. The City reserves the right to refuse admission to the Premises, outside of ordinary business hours, to any person not known by the City or properly identified; to eject any person from the Premises whose conduct may tend to be harmful to the safety and interests of the Premises, the tenants and the property thereon; to close any part of the Premises during any riot or other commotion where person or property may be impaired or prior to, during, or after a Hurricane or other natural disaster.

Section 32.2 – Service Provider Not to Allow Lien or Encumbrances. The 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 Premises of which the Premises is a part. If any lien or notice of lien on the account of any debt of the Service Provider shall be filed against the Premises or the property of which the Premises is a part, and the 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 City in connection therewith shall be paid by the Service Provider.

Section 32.3 – Condition Precedent. All rights, obligations and liabilities of the City and the Service Provider shall be subject to satisfaction of the condition precedent of the complete execution of this Agreement by the Service Provider and the City Manager of the City of Cocoa.

Section 32.4 – Binding Effect. This Agreement shall bind and inure to the benefit of the respective heirs, personal representatives, successors, and assigns of the Parties.

Section 32.5 – 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.

Section 32.6 – Warranty of Professional Services & Compliance with Law. The Service Provider (for itself and any of its employees, contractors, volunteers, 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, and agents used to perform the Municipal Services) have sufficient experience 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. The Service Provider shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority during the performance of the Municipal Services.

Section 32.7 – 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, volunteers, partners, agents, and their employees are independent contractors and not employees of the City. No provision contained herein shall be construed as creating a joint venture between the Parties. 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, volunteers, partners, employees, or agents, during or after the performance of the Work under this Agreement.

Section 32.8 – Public Records. Pursuant to Section 119.0701, Florida Statutes and other applicable public records laws, Service Provider agrees that any records, documents, transactions, writings, papers, letters, computerized information and programs, maps, books, audio or video tapes, films, photographs, data processing software, writings or other material(s), regardless of the physical form, characteristics, or means of transmission, of Service Provider related, directly or indirectly, to the services provided to the City under this Agreement and made or received pursuant to law or ordinance or in connection with the transaction of official business by the City, may be deemed to be a public record, whether in the possession or control of the City or the Service

Provider. Said records, documents, transactions, writings, papers, letters, computerized information and programs, maps, books, audio or video tapes, films, photographs, data processing software, writings or other material(s), regardless of the physical form, characteristics, or means of transmission of Service Provider are subject to the provisions of Chapter 119, Florida Statutes, and may not be destroyed without the specific written approval of the City's designated custodian of public records.

IF SERVICE PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SERVICE PROVIDER'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, 65 STONE ST., COCOA, FLORIDA 32922.

Service Provider is required to and agrees to comply with public records laws. Service Provider shall keep and maintain all public records required by the City to perform the services as agreed to herein. Service Provider shall provide the City, upon request from the City Clerk, copies 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 by law. Service Provider shall 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. Upon completion of the Agreement, Service Provider shall transfer to the City, at no cost, all public records in possession of the Service Provider, provided the transfer is requested in writing by the City Clerk. Upon such transfer, Service Provider shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. However, if the City Clerk does not request that the public records be transferred, the Service Provider shall continue to keep and maintain the public records upon completion of the Agreement and shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City Clerk, in a format that is compatible with the information technology systems of the City. Should the City not possess public records relating to this Agreement which are requested to be inspected or copied by the City or any other person, the City shall immediately notify Service Provider of the request and the Service Provider shall then provide such records to the City or allow the records to be inspected or copied within a reasonable time. If the Service Provider does not comply with a public records request, the City may enforce this Section to the extent permitted by law. Service Provider acknowledges that if Service Provider does not provide the public records to the City within a reasonable time, Service Provider may be subject to penalties under Section 119.10, Florida Statutes. Service Provider acknowledges that if a civil action is filed against Service Provider to compel production of public records relating to this Agreement, the court may assess and award against Service Provider the reasonable costs of enforcement, including reasonable attorney fees. All public records in connection with this Agreement shall, at any and all reasonable times during the normal business hours of the Service Provider, be open and freely exhibited to the City for the purpose of examination, audit, or otherwise. Failure by Service Provider to grant such public access and comply with public records laws and/or requests shall be grounds for immediate unilateral cancellation of this Agreement by the City upon delivery of a written notice of cancellation. If Service Provider fails to comply with this Section, and the City must enforce this Section, or the City suffers a third party award of attorney's fees and/or damages for violating Chapter 119, Florida Statutes, due to Service Provider's failure to comply with this Section, the City shall collect from Service Provider

prevailing party attorney's fees and costs, and any damages incurred by the City, for enforcing this Section against Service Provider. And, if applicable, the City shall also be entitled to reimbursement of all attorneys' fees and damages which the City had to pay a third party because of Service Provider's failure to comply with this Section. The terms and conditions set forth in this Section shall survive the termination of this Agreement.

Section 32.9 – Audit and Inspections. All Service Provider's records with respect to the providing of Municipal Services under 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. Failure of the Service Provider to comply with the above audit requirements will constitute a material breach of this Agreement.

Section 32.10 – 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; the Age and Discrimination Act of 1975; Executive Order 11063; and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

Section 32.11 – 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.

Section 32.12 – 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.

Section 32.13 – 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.

Section 32.14 – Attorney's Fees. Should any litigation arise concerning this Agreement between the Parties, the Parties agree to bear their own costs and attorney's fees, whether at settlement, trial or on appeal.

Section 32.15 – Headings. All headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

Section 32.16 – Waiver. Any waiver by City of any breach or violation of Service Provider's obligations under this Agreement shall not be construed as a continuing waiver or consent to any

subsequent breach or violation.

Section 32.17 – Corporate Representations. Service Provider makes the following representations to City:

A. 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.

B. 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, if requested by the City, a copy to the City of a corporate certificate of good standing provided by the State of Florida prior to, or any time after, the execution of this Agreement.

Section 32.18 – City's Right of Inspection. In addition to any rights of inspection of the City in relation to the occupancy of the Premises by the Service Provider as a tenant, the City is hereby granted the right of entry onto Service Provider's property used to perform the Municipal Services for purposes of determining Service Provider's compliance with this Agreement. The Service Provider hereby agrees to fully cooperate with the City in permitting the City to conduct said inspections.

Section 32.19 – Time of Performance/Term. Time is of the essence under this Agreement. Municipal Services provided by the Service Provider shall begin immediately upon execution of this Agreement.

Sections 32.8, 32.9, 16.1, 16.2 and 32.22 shall survive the termination of this agreement.

Section 32.20 – Assignment. Except as explicitly provided in Section 29.1, this Agreement shall not be assigned by the Service Provider unless agreed to in writing by the City.

Section 32.21 – No City Obligation for Future Obligations to the Service Provider. No provision in this Agreement shall be construed as requiring the City to provide a lessened or nominal rental amount or otherwise in exchange for Municipal Services, or shall otherwise obligate the City in any respect relating to the Service provider, in the future.

Section 32.22 – Sovereign Immunity. The City 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 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. Contractor agrees that City shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, City 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.

Section 32.23 – Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department. The City has not undertaken any independent study of the radon levels in the Premises. The above notice should not be construed or interpreted as a notice that the Premises are exposed to quantities of radon which pose a health risk. The notice is included in this Agreement simply because radon disclosures are now required in all leases pursuant to Florida law.

Article 33 – Recordation. This Agreement shall be recorded in the public records of Brevard County, Florida.

IN WITNESS WHEREOF, this Agreement is entered into as of the day and year the last party signs this Agreement as stated below.

WITNESS:	**GREATER COCOA COMMUNITY PARTNERSHIP, INC. d/b/a "HISTORIC COCOA VILLAGE MAIN STREET"**
_____	
Print Name: _____	By: _____
_____	
Print Name: _____	Print name: _____
	Title: _____
	Date: _____

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me by means of (___) physical presence or (___) online notarization, this _____ day of _____, 2022, by _____, the _____of the Greater Cocoa Community Partnership, Inc., a Florida not-for-profit corporation. He/she is personally known to me or produced _____ _____ as identification.

(NOTARY SEAL)

_____
(Notary Public Signature)

_____
(Print Name)
Notary Public, State of _____
Commission No.: _____
My Commission Expires: _____

ATTEST:

_____
Carie Shealy, City Clerk

CITY OF COCOA:

_____
Michael C. Blake, Mayor

Date:_____

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me by means of (___) physical presence or (___) online notarization, this _____ day of _____, 2022, by Michael C. Blake, the Mayor of the City of Cocoa. Florida**,** a Florida municipal corporation. He/she is personally known to me or produced _____ _____ as identification.

(NOTARY SEAL)

_____
(Notary Public Signature)

_____
(Print Name)
Notary Public, State of _____
Commission No.: _____
My Commission Expires: _____

EXHIBIT A

SCOPE OF WORK

A. GENERAL OBLIGATIONS

1. The Service Provider shall partner with and support the City to fulfill, at a minimum, the community-based projects provided for hereunder in Section B.
2. The Municipal Services shall largely focus on the coordination and implementation of physical improvements to the City, as directed by the City.
3. In addition to the specific projects identified in Section B. hereunder, the Service Provider shall support other community beautification projects, provide volunteers in support of City-sponsored (leisure Services and otherwise) events and/or economic development initiatives.
4. The Service Provider shall supply all personnel necessary to provide the Municipal Services detailed herein.

B. SPECIFIC PROJECTS

A. The Service Provider will provide to the City a promotional table at each of the Service Provider's upcoming events for the City to display any promotional events or materials.

B. The Service provider will include the City logo on all promotional materials for upcoming events. The City shall review the Service Provider's promotional materials in advance of their release and the City may reject inclusion of the City logo thereon in its sole discretion.

C. The Service Provider will help promote and collect items for the City's food, toy, and school supply drives.

D. The Service provider will help plan and promote the "Hot Cocoa Holidays" events which will occur annually, which include but are not limited to, the Holiday Craft Fair, Cocoa/Rockledge Holiday Parade, and Cocoa Holiday Festival.

E. The Service Provide will be the organizing body of an art/design committee that will facilitate art projects in the historic downtown.

F. The Service Provider will coordinate business signage in the downtown, to include number of signs per station and removing businesses that are no longer operating, and will coordinate with the City to establish guidelines and maintenance schedules and procedures. Service Provider will also coordinate the directory signs throughout the Village to include an updated map of the historic downtown, list of events and an updated list of merchants in the downtown.

G. Service Provider will work with the City's Economic Development Department on enhancing the welcome packet given to all new businesses in the community.

H. Service Provider will explore the option of having a parking shuttle available for the downtown and report back to the City costs, staffing and feasibility of this project.

I. Service Provider will host community events in the historic downtown to include but not limited: Arts & Crafts Fairs, Sip & Stroll events, Car Shows, etc.

J. Service Provider will assist the City's Public Works Department on various landscaping enhancement projects for the historic downtown and will seek grants where possible to enhance the landscaping and ambiance of the downtown.

K. Service Provider will coordinate with the City's Public Works Department to help with the annual sidewalk/curb cleaning project.

L. Service Provider will work with property owners in the downtown to put up temporary signage in the vacant storefronts to enhance the look and cohesiveness of the downtown.

M. The Service Provider will conduct a brand audit, rebrand and implement a new website to strengthen the marketing strategy for the historic downtown. The audit will outline the brand of the Historic Downtown and outline recommendations for how the downtown should be marketed to attract new residents, patrons, and visitors.

N. The Service Provider will work with the Public Information Officer to co-op on advertising and marketing opportunities highlighting the historic downtown as a destination including, but no limited to, visitors guides and waterfront advertising.

O. The Service Provider will help conduct a waste audit, surveying all of the businesses in Historic Cocoa Village. The survey will include but is not limited to information regarding the types of generators, receptacles, payments, surveyors' roles, etc.

Legislation Details (With Text)

File #:	22-464	**Version:**	1	**Name:**	
Type:	Contract			**Status:**	Consent Agenda
File created:	8/3/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Approve a Resolution Waiving the Competitive Bidding Process for the Construction of the Influent Pump Station (IPS) Rehabilitation Project at the Jerry Sellers Water Reclamation Facility; To Authorize the City Manager to Execute Amendment #1 to the Master Services Agreement with Garney Companies, Inc., and Petticoat-Schmitt Civil Contractors, Inc., and Amendment #3 to the Master Services Agreement with Wharton-Smith, Inc., for Construction Manager at Risk (CMAR) Services for Specified Water and Wastewater System Projects. (Utilities Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Resolution Waiving Competitive Bidding.pdf Garney Master Services Agreement.pdf Petticoat Master Services Agreement.pdf Wharton Master Services Agreement.pdf Amendment_1_RFQ-19-04A_Garney_Partially_Exe.pdf Amendment_1_RFQ-19-04A_Petticoat_Partial.pdf Amendment_3- RFQ19-04A-WSI-Partial.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 3, 2022
Agenda Date: August 23, 2022
Prepared By: John Perrin, P.E., Senior Engineer
Through: John A. Walsh, P.E., Utilities Director

Requested Action:
To Approve a Resolution Waiving the Competitive Bidding Process for the Construction of the Influent Pump Station (IPS) Rehabilitation Project at the Jerry Sellers Water Reclamation Facility; To Authorize the City Manager to Execute Amendment #1 to the Master Services Agreement with Garney Companies, Inc., and Petticoat-Schmitt Civil Contractors, Inc., and Amendment #3 to the Master Services Agreement with Wharton-Smith, Inc., for Construction Manager at Risk (CMAR) Services for Specified Water and Wastewater System Projects.

BACKGROUND:

The Influent Pump Station (IPS) Rehabilitation Project is exempt from competitive bidding under state law, pursuant to s. 255.20(1)(c)5., as it is being undertaken as repair and maintenance of the existing Jerry Sellers Water Reclamation Facility (Sellers WRF) as defined and explained therein.

In addition, the City Council may waive competitive bidding for the IPS Project under the City's purchasing policies. Pursuant to the City's Financial Operations Manual, Section 12.2.B and Purchasing Policies therein, the City may waive competitive bidding for large projects expected to cost more than $35,000 when the City Council determines, under particular circumstances, from time to time, that an exception to competitive bidding is in the best interests of the City.

Due to time and space constraints, City staff recommends that competitive bidding be waived for the IPS Rehabilitation Project in the best interests of the City. The IPS Project will be consolidated with, and performed in conjunction with, the Internal Recycle Pump (IRP) Replacement and Transfer Pump Station (TPS) Rehabilitation Projects as described below. Also, the IPS Rehabilitation Project will be added to the scope of possible wastewater projects as an Amendment to the three existing Master Services Agreements for Construction Manager at Risk Services already utilized by the Utilities Department.

The City has been ordered to perform rehabilitation and replacement of components within the IPS and headworks areas of the Sellers WRF by December 31, 2023, pursuant to a Consent Order with the Florida Department of Environmental Protection (FDEP). The work generally consists of the replacement of pumps, piping, gates, and related appurtenances, as well as the refurbishment of the concrete basins of the IPS and headworks areas. The Consent Order also requires the City to replace the three transfer pumps and related appurtenances at the Transfer Pump Station by December 31, 2023.

In addition to the Consent Order, the Advanced Waste Treatment (AWT) requirements per s. 403.806 mandate stricter limitations on wastewater effluent by July 1, 2025. The result of the statute effectively requires upgrades to the IRP system at the Sellers WRF to be in place and fully operational by July 1, 2024, to allow time for testing and tuning of the system during wet and dry seasons prior to the AWT deadline in order to meet compliance requirements.

While the TPS and IRP Projects are already listed in the scope of possible projects under the Master Services Agreement for Construction Manager at Risk (CMAR) Services for Specified Water and Wastewater System Projects (RFQ 19-04-COC), which was competitively bid through a Request for Qualifications released on September 14, 2018, the IPS Project is not currently listed. The City has three existing CMAR Master Services Agreements with three different CMAR contractors, each of which will be given the opportunity to submit a proposal for the consolidated project based on the information supplied by the City, as provided in the Agreement, to ensure that the City will receive a competitive price for the consolidated project.

If the IPS/TPS Rehabilitation and IRP Replacement Projects are completed using different contractors, it is likely the City will not meet the deadlines imposed in the FDEP Consent Order or the AWT statute because the option to overlap some of the projects' construction due to space constraints will not be available and, similarly, the option to save time by eliminating the mobilization of multiple contractors will not be available, adding to the overall length of the Projects. These projects have not started as a result of complications with the Biological Nutrient Removal (BNR) Improvements Project, which had to be performed prior to the start of the IPS Rehabilitation Project. The eventual litigation associated with the BNR Improvements Project led to a delay in its start, consequently postponing these projects.

Staff recommends approval of this agenda item which would allow the existing CMAR contractors

under RFQ 19-04-COC to submit proposals for the consolidated project. This would not only ensure that the individual projects are expedited in order to meet Consent Order and AWT compliance deadlines, but also result in better contractor participation due to the higher consolidated project cost, and ultimately competition, amongst the three existing CMAR contractors, which is likely to result in overall cost reductions for the City.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

Budgeted	N/A
If not budgeted, is amendment/transfer attached?	N/A

PREVIOUS ACTION:

On October 24, 2018, City Council approved the final ranking of the firms for RFQ-19-04-COC, Construction Manager at Risk (CMAR) Services for Specified Water and Wastewater System Projects, and authorized the City Manager and City Attorney to negotiate and execute a multi-year contract with the three top-ranked firms.

RECOMMENDED MOTION:

To Approve a Resolution Waiving the Competitive Bidding Process for the Construction of the Influent Pump Station (IPS) Rehabilitation Project at the Jerry Sellers Water Reclamation Facility;
To Authorize the City Manager to Execute Amendment #1 to the Master Services Agreement with Garney Companies, Inc., and Petticoat-Schmitt Civil Contractors, Inc., and Amendment #3 to the Master Services Agreement with Wharton-Smith, Inc., for Construction Manager at Risk (CMAR) Services for Specified Water and Wastewater System Projects.

RESOLUTION NO. 2022-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 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 23rd day of August, 2022.

_____

ATTEST: MICHAEL C. BLAKE, MAYOR

_____

CARIE SHEALY, MMC, CITY CLERK

EXHIBIT “A”

To Resolution No. 2022-XXX

The City Manager recommends that the competitive bidding requirement be waived, by reason of single source purchase, for the construction of the Influent Pump Station (IPS) Rehabilitation Project at the Sellers Water Reclamation Facility from the awarded Construction Manager At Risk (CMAR) contractor.

The Department Director provided supporting documentation toward justification of the waiver, based on single source, as an exception to the sealed bidding process; and based on this documentation, I support approval of the Resolution.

_____

Stockton Whitten, City Manager

MASTER SERVICES AGREEMENT
Construction Manager at Risk (CMAR) Services for
Specified Water and Wastewater System Projects

THIS AGREEMENT is made and entered into this 4th day of January, 2018, by and between the **CITY OF COCOA**, a Florida municipal corporation ("City"), located at 65 Stone Street, Cocoa, Florida 32922, and **GARNEY COMPANIES, INC.**, a Missouri corporation authorized to conduct business in Florida ("Construction Manager"), whose principal address is 370 East Crown Point Road, Winter Garden, Florida 34787.

WITNESSETH:

WHEREAS, the City desires to obtain construction manager at-risk (CMAR) services to include pre-construction and construction phase services for identified projects for the City's water and wastewater systems from time to time and on an as-needed, project-specific basis; and

WHEREAS, the City has followed the selection and negotiation process set forth in the Florida's Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes specifically for the projects that are identified in RFQ #Q-19-04-COC and set forth herein; and

WHEREAS, Construction Manager participated in the selection and negotiation process under RFQ #Q-19-04-COC and desires to provide CMAR services if the City assigns one or more of the identified projects to the Construction Manager after the effective date of this Agreement; and

WHEREAS, Construction Manager is willing to provide such CMAR services to the City under the terms and conditions stated herein; and

WHEREAS, the City is willing to place Construction Manager on its list of pre-approved CMAR services consultants for the aforementioned projects.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

1.0 DEFINITIONS. The following words and phrases used in this Agreement shall have the following meaning ascribed to them unless the context clearly indicates otherwise:

1.1 "Agreement" shall refer to this Master Services Agreement, as may be amended from time to time, which shall constitute authorization for Construction Manager to provide CMAR services approved on an individual basis by the City.

1.2 "Assigned Project" means each individual Project for which Construction Manager is assigned by the City to provide Services pursuant to the project bidding procedure set forth in Paragraph 4.1 of this Agreement.

1.3 "Change Order" shall mean a written order signed by the City authorizing an addition, deletion, or revision in the Work or adjustment in the contract price or time.

1.4 "Construction Manager" shall mean Garney Companies, Inc., a Missouri corporation authorized to conduct business in Florida, and its principals, employees, and resident project representatives (and assistants).

1.5 "Contract Documents" consist of the following items, including all modifications thereof, incorporated into the documents before their execution: this Agreement; Notice to Firms; Instructions to Bidders; Special Provisions; GMP Amendment; Technical Specifications; Proposal; Performance/Payment Bond; Drawings; and Addenda pertaining to the contract.

1.6 "Contractor's Fee" is the Construction Manager's profit for the construction phase work for each Project, expressed as a percentage of the cost of construction.

1.7 "Design Engineer" means the engineering team retained by the City to create the design and specifications for the Project. The Design Engineer is the Engineer of Record for the Project.

1.8 "Effective Date" shall be the date on which 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 go into effect until said date.

1.9 "GMP Amendment" is a document that outlines the scope of the Work, the technical documents, assumptions, clarifications, technical exclusions, the project schedule, and the GMP Proposal for the Project. The executed GMP Amendment shall automatically become part of the Contract Documents and shall establish the GMP, key supervisory personnel for the Project, the contract duration for the Project, liquidated damages dollar amount per calendar day, and all required bond and insurance documents.

1.10 "GMP Proposal" is a price proposal that includes the Construction Manager's General Conditions Fee, cost of the construction Work, payment and performance bond costs, building permit allowance, insurance costs, project construction contingency, and Contractor's Fee. The GMP Proposal shall be based on the drawings and specifications and the Contract Documents.

1.11 "Guaranteed Maximum Price" or **"GMP"** is the construction price agreed to between the Construction Manager and the City (as set forth in the GMP Amendment) and is the maximum total Project price that the Construction Manager guarantees not to exceed for the Construction Phase of the Assigned Project. It shall not include the services rendered during the Pre-Construction Phase.

1.12 "General Conditions Fee" is the overhead for services for the Construction Phase, exclusive of physical construction, expressed as a percentage of the cost of the construction Work.

1.13 "Open-Book Process" is the process used for establishing costs and subsequent GMP. The process requires the cost to be developed in a completely transparent manner, with no hidden costs or inflated amounts. Transparency means full, confidential disclosure of all the details and can include third party verification, if required. Construction estimates should be based on the actual cost of the Work. This can mean actual labor, expenses, materials, equipment, and production rates for the self-performed scope, combined with stand-alone subcontractor quotes obtained via best-value, competitive bidding approach.

1.14 "Project(s)" means only those projects that were identified in RFQ #Q-19-04-COC, as listed in Paragraph 3.1 of this Agreement.

1.15 "Project Manager" is the person designated by the City to provide direct interface with the Construction Manager with respect to the City's responsibilities, as identified on the specifications for each Project.

1.16 "Project Site" is the location of the Project, as identified on the specifications for each Project.

1.17 "Project Team" is comprised of the Construction Manager, the City, and the Design Engineer.

1.18 "Public Record" shall have the meaning given in Section 119.011(12), Florida Statutes, as may be amended.

1.19 "Subcontractor" includes only those having a direct contract with the Construction Manager, and includes one who furnished material worked to a special design according to the plans or specifications of this Work, but does not include one who merely furnishes material not so worked.

1.20 "Value Engineering" is a project evaluation technique used during the Pre-Construction Phase that seeks to reduce costs and/or increase value by analyzing the functional requirements of a Project's materials, methods, components, and subsystems consistent with specified performance, reliability, maintainability, aesthetic, safety, and security criteria to ensure that it provides the best use of available Project funds.

1.21 "Work" or **"Services"** shall be used interchangeably and shall include the performance of the work agreed to by the parties for each Assigned Project, consistent with the projects described in Paragraph 3.1 of this Agreement. Work includes labor or materials or both, equipment, transportation, or other facilities necessary to complete the contract.

2.0 TERM OF AGREEMENT

2.1 The term of this Agreement shall commence on the Effective Date and shall continue until the completion of the Projects described in Section 3.1 below, unless earlier terminated pursuant to the terms of this Agreement. Unless otherwise specified in a notice of termination, any Assigned Project in effect at the termination of this Agreement shall remain in

effect until completion of said Assigned Project, and all of the terms and conditions of this Agreement shall survive until completion of all Assigned Projects.

3.0 GENERAL DESCRIPTION OF SERVICES

3.1 Projects. The Projects for which Construction Manager may be assigned by the City to provide services under this Agreement are limited to the following:

Water Projects

The Claude H. Dyal Water Treatment Plant (Dyal WTP) consists of a surface water treatment plant with a rated capacity of 12 MGD, expandable to 24 MGD, and a fully built out ground water treatment plant rated to treat 60 MGD. Average daily flows from the Dyal WTP annually are approximately 22.7 MGD. The disinfection system in place utilizes 4 ammoniators and 11 chlorinators, with associated storage and supply systems.

A. Chemical Conversion and Reliability Improvements Project
   - Chlorine gas and anhydrous ammonia conversions at the Dyal WTP.
   - Installation of a redundant 54-inch pump discharge transmission main and associated flow meter and vault. Included in this portion of work are new Generator and High Service Pump Buildings to include; associated mechanical piping, flow meter and vault, controls, piping connecting transfer pump line to suction line, new emergency generators, and refurbishment and relocation of the existing high service pumps #2 and #3.
   - Addition of a pressurized water main to create a loop to feed the existing 8 inch main loop on the south half of the plant site.
   - Plant site improvements to include a new maintenance/training building, modifications to the plant main entrance road, improvements to main entrance security, other security improvements, and associated drainage improvements.

B. Banana River Pump Station Improvements
   - Replacement of the two existing 2MG tanks at the Banana River Tank Site
   - Improvement to the chemical feed systems

C. Viera Pump Station Chloramination Conversion
   - Change existing chlorination system to a chloramination system to include new chemical injection system and associated infrastructure

D. Groundwater Filter Effluent Pipe Connection to Surface Water Clearwell
   - Connection of the groundwater filter effluent to the new surface water clearwell effluent pipe

E. Improvements to the Ozone System at the Dyal WTP
   - Chiller Replacement and Generator Improvements
   - Improvements to the Ozone System Contactor

F. Re-Carbonation Basin Expansion, Reconfiguration, and Improvements

G. Installation of third Sulfuraetor and Multipurpose Building at the Wewahootee site

H. Replacement of Dyal Finished Water 5MG Steel Ground Storage Tank

I. Surface Water (SW) Dewatering Improvements
   - Update of the SW polymer feed system and associated controls.
   - Building improvements to include HVAC and structural repairs

J. Rehabilitation of the Lime Residual Gravity Thickener Nos. 1, 2, and 3
   - Complete replacement of Gravity Thickener No. 3
   - Rehabilitation of Gravity Thickener Nos. 1 and 2
   - Dewatering Storage Improvements
   - Building Improvements

K. Wellfield Security Improvements
   - Increased security of our western wells to include fencing, cameras, lighting, and motion sensors.
   - Includes associated fiber installation

Wastewater Projects

The Jerry Sellers WRF is a 4.5 MGD AADF biological nutrient removal (BNR) facility providing tertiary treatment to allow wastewater effluent to be reclaimed for use in landscape irrigation. The BNR process is a modified five-stage Bardenpho process designed to remove carbonaceous biological oxygen demand (CBOD5), total nitrogen, and total phosphorus. Secondary clarification and tertiary filtration are provided to remove total suspended solids (TSS), followed by disinfection.

A. Biosolids Improvements Project
   - Improvements to the Jerry Sellers WRF biosolids treatment, including the replacement of existing belt filter presses and improvements to the existing building, addition of Aerobic Digester No. 3, and the replacement of the Aerobic Digester Blowers.

B. Chemical Storage Relocation
   - Relocating the chemical storage and feed facilities for greater control and automation of the process.

C. Internal Recycle Pump Replacement

D. Local Control Panel (LCP) # 1 Rehabilitation

E. Reclaimed Water Pump Replacements

F. Replacement of Motor Control Center (MCC) #7 and #8

G. Transfer Pump Replacements

H. Construction of valve vault and replacement of valves located near the digesters

The above are general descriptions of the Projects and will be further defined and clarified by the City during the term of this Agreement.

3.2 Definition of Services. The Construction Manager agrees to furnish its best skill and judgment and to cooperate with the Design Engineer, where applicable, in furthering the interests of the City. The Construction Manager agrees to furnish efficient business administration and superintendence and to use its best efforts to complete each Assigned Project in an expeditious and economical manner consistent with the interests of the City. The Construction Manager agrees to furnish construction services as set forth herein and required for completion of each Assigned Project on a guaranteed maximum price basis. The Construction Manager represents that it is thoroughly familiar with and understands the requirements of the referenced Projects and that it is experienced in the administration and construction of building projects of the types and scopes referenced above. The Construction Manager represents to the City that it has all necessary construction education, skill, knowledge, and experience required for these Projects and will maintain, at all times during the term of this Agreement, such personnel on its staff to provide the Services contemplated hereby within the time periods required for each Assigned Project. In addition, Construction Manager represents that it has, and all of the Subcontractors performing Services under this Agreement will have, all applicable licenses required by the State of Florida to perform such Services. The Construction Manager acknowledges that it is not guaranteed nor entitled to provide services to the City in connection with any particular Project by virtue of entering into this Agreement with the City and that the City may, in its sole discretion, decline to assign any Project to Construction Manager.

3.3 Project Team. The Construction Manager, the City, and the Design Engineer will work as a team through construction completion of each Assigned Project. The Construction Manager shall provide leadership to the Project Team on all matters relating to construction. The Design Engineer will provide leadership to the Project Team on all matters relating to design. When performing any Services under this Agreement, the Construction Manager shall utilize the key personnel described in the GMP Amendment. In the event any such personnel discontinue employment with Construction Manager, Construction Manager shall promptly replace such personnel with individuals approved by the City, in writing, which approval will not be unreasonably withheld.

3.4 Project Schedule/Time of the Essence. For each Assigned Project, the Construction Manager will provide the City with a preliminary schedule covering the Pre-Construction and Construction Phases. This preliminary schedule shall serve as the framework for the subsequent development of all detailed construction schedules described in this Agreement or the Contract Documents. The Construction Manager shall at all times carry out its duties and responsibilities as expeditiously as possible and in accordance with the Assigned Project schedule, subject to delays in the schedule not the fault of the Construction Manager or its Subcontractors. Time is of the essence in the performance of this Agreement.

3.5 Preparation/Sufficiency of Site. The Construction Manager 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 Assigned

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 Assigned Project; (iii) familiarize itself with the City's layout and design requirements, conceptual design objectives, and budget for the Assigned Project; (iv) familiarize itself with pertinent Assigned Project dates, including the Assigned Project schedule; (v) review and analyze all Assigned 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 Assigned Project. If the Assigned Project involves modifications to any existing structure(s) or other man-made feature(s) on the Project Site, the Construction Manager shall also review all as-built and record drawings, plans, and specifications of which the Construction Manager has been informed by 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 Construction Manager resulting from its failure to familiarize itself with the Project Site or pertinent documents shall be deemed waived.

3.6 Contract Documents. The Contract Documents are complementary, and what is called for by any one shall be as biding as if called for by all. The intent of the Contract Documents is to include all labor, materials, equipment, transportation, and incidentals necessary for the proper and complete execution of the Work for each Assigned 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.

3.7 Priority of Documents. In the event of discrepancies among the Contract Documents, priority shall be given in the following order:

First	GMP Amendment
Second	This Agreement, including all Exhibits
Third	Proposal
Fourth	Special Provisions
Fifth	Instructions to Bidders
Sixth	Technical Provisions
Seventh	Drawings
Eighth	Performance and Payment Bonds

4.0 CITY'S DUTIES, OBLIGATIONS & RESPONSIBILITIES

4.1 Project Information; Bidding. When a Project is developed by the City, it will notify the Construction Manager of the Project in the form of a bid document and will supply relevant information concerning the Project (for example, specifications, design drawings, sketches, schedule expectations, and budget). Construction Manager will be given the opportunity to submit a proposal based on the Project information supplied by the City. The proposal shall include the Construction Manager's Pre-Construction Phase Services Fee (lump sum amount), General Conditions Fee (percentage of the estimated cost of construction), Contractor's Fee

(percentage of the estimated cost of construction), and insurance and bond costs (percentage of the estimated cost of construction). Construction Manager's response time for developing a proposal when notified of a Project will be based on the type of work to be assigned and will be stipulated by City in the bid document. If a site visit is required for the Project, the City shall state that in the bid document to Construction Manager.

The City will review the proposals submitted and select based on the lowest, most responsive bid. Upon selection, the City will issue (i) a Notice to Proceed and (ii) an executed City purchase order to Construction Manager.

4.2 City's Budget. The City shall establish and update a budget for each Project, including the amount allocated for construction, the City's other costs, and reasonable contingencies related to these costs as appropriate.

4.3 City's Representative. The City shall designate a Project Manager as its representative authorized to act on its behalf with respect to each Project.

4.4 Reservation of Rights; No Guarantee. The City reserves the right, at its discretion, to perform any services related to this Agreement or to retain the services of other construction management companies to provide professional services. The City does not guarantee that any Work will be assigned to Construction Manager under this Agreement. The City reserves the right to assign or contract for professional services with any party in its sole discretion. No provision of this Agreement shall be construed to require the City to assign any Work or Project to Construction Manager under this Agreement.

4.5 Time for Performance. The City shall review and approve or take other appropriate action on all design submittals within the timeframes set forth in the Assigned Project schedule.

4.6 Purpose of City's Review. 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 each Assigned Project. No review, inspection, or approval by the City of such Work or documents shall relieve the Construction Manager 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 Construction Manager 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 Construction Manager 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 Design Engineer to the Construction Manager if the City becomes aware of any fault or defect in the Assigned Project or non-conformance with the Contract Documents.

4.7 Status of City. 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 Construction Manager, for any of the foregoing purposes, be deemed the agent of the City.

4.8 City's Utilities. The Construction Manager shall be responsible to provide and pay for consumption of, and connections to, utilities required for temporary service and construction unless otherwise directed by the City.

5.0 CONSTRUCTION MANAGER'S SERVICES. The Construction Manager's Services to be provided hereunder shall include, but are not limited to, those described or specified herein. The services described or specified shall not be deemed to constitute a comprehensive specification having the effect of excluding services not specifically mentioned.

5.1 General Project Services. For each Assigned Project, the Construction Manager agrees to:

a. Identify a representative authorized to act as the project manager on behalf of the Construction Manager. This person shall be designated at the beginning of the Pre-Construction Phase and shall be the project manager through completion of the Construction Phase. The designee will need to be approved by the City and no substitutions will be allowed without prior written approval by the City.

b. Provide all services required to professionally complete the Work in an expeditious and economical manner consistent with the Contract Documents and the best interests of the City.

c. Endeavor to develop, implement, and maintain, in consultation with the City, Design Engineer, and subcontractors, a spirit of cooperation, collegiality, and open communication among the parties so that the goals and objectives of each are clearly understood, potential problems are resolved promptly, and, upon completion, the Assigned Project is deemed a success by all parties.

d. Perform the Services in accordance with schedule requirements.

e. Participate in, and cooperate with, design phase, construction phase, and post-occupancy commissioning, validation, and other quality assurance and quality control processes.

f. Complete all Work by the required date of substantial completion. The Construction Manager shall submit an initial construction schedule within the timeframe set by the City; a final construction schedule with the GMP Proposal; and revised construction schedules in accordance with the Contract Documents. The construction shall complement, and shall not conflict with, the design schedule.

g. Comply with City's policies, project management guides, and all requirements of the Contract Documents.

h. Expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. If the City agrees to procure any items prior to the establishment of the GMP pursuant to Section 5.5 below, the City shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the GMP, the City shall assign all contracts for these items to the Construction Manager, and the Construction Manager shall thereafter accept responsibility for them.

5.2 Pre-Construction Phase Services.

a. Scope of Services. The Construction Manager's Pre-Construction Phase Services for each Assigned Project will be set forth in the "Scope of Services" section of the Instruction to Bidders for the Project.

b. Commencement of Services. Construction Manager shall commence performance of Pre-Construction Phase Work within ten (10) days after receipt from the City of both the executed purchase order and the Notice to Proceed. The Pre-Construction Phase shall be complete once the GMP Proposal has been submitted by the Construction Manager, approved by the City, and made a part of the Contract Documents. The GMP Proposal shall be submitted at the ninety percent (90%) design phase, which shall be dictated by the design schedule.

c. Project Kick-Off Meeting. Within ten (10) calendar days following receipt of the Notice to Proceed/original purchase order, a mandatory project kick-off meeting will be held with the City and Design Engineer to discuss the Pre-Construction Phase Work and support of the City's Design Engineer in developing the design.

5.3 Guaranteed Maximum Price Proposal.

a. At ninety percent (90%) completion, the Construction Manager shall prepare a GMP Proposal for the City's review and acceptance. The GMP Proposal shall include the Construction Manager's General Conditions fee, cost of the construction Work, payment and performance bond costs, building permit allowance, insurance costs, project construction contingency, and Contractor's Fee. The GMP Proposal shall be based upon the drawings and specifications and the Contract Documents.

b. The GMP will include an amount agreed upon by the City and Construction Manager as a contingency to be used to pay for unforeseeable conditions. Unforeseeable condition expenditures require prior written consent of the City before execution of the work.

c. The Construction Manager shall include with the GMP Proposal a written statement of its basis, which shall include the following:

(i) A list of the drawings and specifications, including all addenda thereto, and the conditions of the contract;

(ii) A list of the clarifications and assumptions made by the Construction Manager in preparation of the GMP Proposal, including assumptions, permits, bonds, insurance, and all items required to complete the Project, to supplement the information provided by the City and contained in the drawings and specifications;

(iii) A statement of the proposed GMP, including a statement of the estimated cost of the Work organized by trade categories or systems, allowances, contingency, and the Construction Manager's fee;

(iv) The anticipated construction schedule and date of substantial completion upon which the proposed GMP is based; and

(v) A mutually agreeable date by which the City must accept the GMP.

d. The Construction Manager shall meet with the City to review the GMP Proposal. In the event that the City discovers any inconsistencies or inaccuracies in the information presented, it shall promptly notify the Construction Manager, who shall make appropriate adjustments to the GMP Proposal, its basis, or both.

e. If the City notifies the Construction Manager that the City has accepted the GMP Proposal in writing by the date specified in the GMP Proposal, the GMP Proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of the GMP, the City and the Construction Manager shall execute the GMP Amendment. The GMP Amendment shall outline the scope of Work, the technical documents, any assumptions, clarifications, or technical exclusions, the Assigned Project schedule, liquidated damages dollar amount per day, and the GMP Proposal for the Assigned Project.

f. The Construction Manager shall not incur any cost to be reimbursed associated with the Construction Phase of the Work prior to the commencement of the Construction Phase, unless the City provides prior written authorization for such costs.

g. The City shall authorize the Design Engineer to provide the revisions to the drawings and specifications to incorporate any agreed-upon assumptions and clarifications contained in the GMP Amendment. The City shall promptly furnish those revised drawings and specifications to the Construction Manager as they are revised. The Construction Manager shall notify the City of any inconsistencies between the GMP Amendment and the revised drawings and specifications.

5.4 Construction Phase Services.

a. Scope of Services. The Construction Manager's Construction Phase Services for each Assigned Project will be set forth in the "Scope of Services" section of the Instruction to Bidders for the Project.

b. Commencement of Services. Construction Manager shall commence performance of Construction Phase Work upon the City's acceptance of the Construction Manager's GMP Proposal and the execution of the GMP Amendment. The commencement and completion time of the Construction Phase of the Work and the liquidated damages dollar amount per calendar day shall be included in the GMP Amendment.

c. Construction Phase Conference. Within twenty (20) days after the effective date of the GMP Amendment, but before the Construction Manager starts the Construction Phase, a mandatory pre-construction conference will be held at the Project Site for review and acceptance of the schedules, to establish procedures for handling shop drawings and other submittals and for processing applications for payment, and to establish a working understanding among the parties as to the Work

5.5 Direct Purchase Program. The City may elect to implement a direct purchase program whereby it may purchase materials and equipment included in any subcontractor's bid for a portion of the Work directly from the supplier of such materials or equipment in order to achieve sales tax savings. Such materials and equipment are referred to as "Direct Purchase Materials." If City elects to implement a direct purchase program, it shall so notify Construction Manager in writing, and the terms of this paragraph shall govern, along with City's policies on the subject in effect at the time Construction Manager commences construction of the Assigned Project. The minimum value for a direct purchase shall be $100,000. The Construction Manager shall obtain Builder's Risk insurance on the Direct Purchase Materials naming the City as the insured or an additional insured, provided City shall reimburse Construction Manager for the cost of such insurance as provided by this Agreement. Construction Manager shall be responsible for safeguarding all Direct Purchase Materials on the Project Site on City's behalf.

6.0 CONTRACT SUM.

6.1 Payments to Construction Manager. The City will pay the Construction Manager as follows, with the specific amounts and/or percentages to be set forth on each Assigned Project-specific proposal as agreed to and accepted by the City.

a. Pre-Construction Services Fee. The fixed fee for the Construction Manager's Pre-Construction Services, which fee includes all direct and indirect costs incurred by the Construction Manager in the proper performance of the Pre-Construction Services.

b. General Conditions Fee. The General Conditions Fee for the Construction Phase, exclusive of physical construction, expressed as a percentage of the cost of the Construction Phase Work for the Project.

c. Contractor's Fee. The Construction Manager's profit for the Construction Phase Work, expressed as a percentage of the cost of construction Work for the Assigned Project.

d. Bonds. The Construction Manager's performance and payment bonds as required by the Contract Documents, expressed as a percentage of the cost of construction Work for the Assigned Project.

e. Insurance. The Construction Manager's insurance costs for the Project as required by the Contract Documents, expressed as a percentage of the cost of construction Work for the Assigned Project.

6.2 Guaranteed Maximum Price. The GMP is the construction price agreed to between the Construction Manager and the City (as set forth in the GMP Amendment) and is the maximum total price that the Construction Manager guarantees not to exceed for the Construction Phase of the Assigned Project. The GMP does not include the services rendered during the Pre-Construction Phase.

a. The GMP Amendment is a document that outlines the scope of the Work, the technical documents, assumptions, clarifications, technical exclusions, Project schedule, and GMP Proposal for the Assigned Project. The executed GMP Amendment shall automatically become a part of the Contract Documents and shall establish the GMP, the key supervisory personnel for the Assigned Project, the contract duration for the Assigned Project, liquidated damages dollar amount per day, and all required bond and insurance documents.

b. If the City and the Construction Manager are unable to agree on a GMP for the Construction Phase, the City shall terminate this Agreement as to that Assigned Project and direct the Design Engineer to complete the design and prepare construction drawings and specifications for public bidding of the Construction Phase of the Project. The Construction Manager shall not be permitted to submit a bid for the public bidding of the Construction Phase of the Project.

c. The Construction Manager guarantees that the contract sum (exclusive of the Pre-Construction Services Fee) shall not exceed the GMP set forth in the GMP Amendment, as it may be modified from time to time. To the extent the cost of the Work exceeds the GMP, the Construction Manager shall bear such costs in excess of the GMP without reimbursement or additional compensation from the City.

d. The GMP is subject to additions and deductions by Change Order as provided in the Contract Documents, and the dates of substantial and final completion shall be subject to adjustment as provided in the Contract Documents.

6.3 Construction Manager's Contingency.

a. The Construction Manager's contingency, established in the GMP, may be utilized, with the City's concurrence, for the following reasons:

(i) errors and omissions in the Construction Manager's bidding and scoping processes;

(ii) reasonable schedule recovery;

(iii) means, methods, and materials reasonably inferred from the Contract Documents;

(iv) subcontractor non-performance or default;

(v) Work not included in the Contract Documents that is necessary to cause the Assigned Project to conform to applicable building codes but was not identified as missing during the review of Contract Documents (through no fault of the Construction Manager), but expressly excluding any legal costs and expenses, including, without limitation, attorneys' fees and costs, associated with the Assigned Project;

(vi) other costs incurred by the Construction Manager that are not cost of the Work or General Conditions cost, for provision of management services necessary to complete the Assigned Project in an expeditious and economical manner consistent with the Contract Documents and the best interests of the City, but expressly excluding any legal costs and expenses, including, without limitation, attorneys' fees and costs, associated with the Assigned Project.

b. If upon completion of seventy-five percent (75%) of the Work, the remaining amount of contingency exceeds one-half of the amount of the initial post-buyout contingency, such excess shall be transferred via Change Order to the City.

6.4 Buyout Savings.

a. If Construction Manager receives bids for portions of the Work that are less than the amounts budgeted in the GMP proposal approved by City for such portions of the Work, such buyout savings shall first be utilized to offset shortfalls on other bid packages.

b. If, after offsetting any shortfalls, buyout savings remain, at the time provided in the Project schedule for the award of subcontracts, all buyout savings shall be returned to the City via "no cost" Change Order.

c. Use of Buyout Savings/Sales Tax Savings. The net amount of buyout savings and savings from City's purchase of Direct Purchase Materials may be utilized by the City for the following or other reasons:

(i) City's or Design Engineer's requested changes;

(ii) additive bid alternates and deductive credits;

(iii) design errors or omissions in the Contract Documents that were not detected by the Construction Manager through no fault of Construction Manager, including Work necessary to cause the Assigned Project to conform to applicable building codes;

(iv) differing/unforeseen existing conditions, as permitted by the Contract Documents.

6.5 Changes to the Guaranteed Maximum Price.

a. If the GMP has been established and when a specific bidder (i) is recommended to the City by the Construction Manager, (ii) is qualified to perform that portion of the Work, and (iii) has submitted a bid that conforms with the requirements of the Contract Documents without reservations or exceptions, but the City requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the construction schedule and the GMP by the difference between the bid of the person or entity recommended to the City by the Construction Manager and the amount and time requirement of the person or entity designated by the City.

b. Any changes to the scope of work that occur after the approval of the GMP Proposal will be addressed via the Change Order process.

6.6 Progress Payments. Partial payments calculated from completed Work in place and acceptable to the City at the unit bid prices or agreed-upon schedule of values will be made on or about the fifteenth (15^{th}) of each month on pay estimates based on the previous month's progress. The Construction Manager shall, after the first of each month, submit an invoice for materials used and Work performed for the previous month. A form of pay estimate, stating that the bill is fair and equitable and in exact accord with contract prices, will be utilized for pay purposes. Once the Construction Phase of the Work commences, ten percent (10%) of the amount due and payable to the Construction Manager will be retained from each month's partial payment. Final payment will be accomplished as prescribed in the Contract Documents and will be based on complete Work in place. The Construction Manager shall (i) provide satisfactory evidence that it has acquired title to the materials, that materials have been paid for, and that the material will be used to perform Work for the Assigned Project, and (ii) provide a Consent of Surety for the progress payments.

6.7 Florida Prompt Payment Act. All payments to be made hereunder shall be due and payable as provided by the Florida Prompt Payment Act, Section 218.70 et. seq., Florida Statutes.

7.0 GENERAL TERMS AND CONDITIONS

7.1 Detail Drawings and Instructions. The City's Project Manager will furnish, with reasonable promptness, additional instructions by means of drawings or otherwise, necessary for the proper execution of the Work. All such drawings and instructions will be consistent with the Contract Documents, true developments thereof, and reasonably inferable therefrom.

7.2 Copies of Drawings Furnished. Unless otherwise provided in the Contract Documents, the City will furnish to Construction Manager, free of charge, all copies of drawings and specifications reasonably necessary for the execution of the Work.

7.3 Order of Completion. Prior to the start of the Work, Construction Manager shall submit schedules that show the order in which the Construction Manager proposes to carry on the Work with dates at which the Construction Manager will start the several parts of the Work and estimated dates of completion of the several parts. The City's Project Manager may order the schedule to be supplemented or amended as necessary to afford proper continuity of the Work.

7.4 Drawings and Specifications on the Work. The Construction Manager shall keep one copy of all drawings and specifications of the Work in good condition available to the City and its representatives.

7.5 Ownership of Drawings. All drawings, specifications, and copies thereof furnished by the City are its property. They are not to be used on other work and, with the exception of the signed contract set, are to be returned to the City on request, at the completion of the Work.

7.6 Construction Manager's Understanding. It is understood and agreed that at such time as Construction Manager is authorized to proceed with an Assigned Project by the City, the Construction Manager shall carefully examine the Contract Documents and Project Site, satisfy itself as to the nature and location of the Work, the conformation of the ground, the character, quality, and quantity of the materials to be encountered, the character of the equipment and facilities needed preliminary to and during the prosecution of the Work, the general and local conditions, and all other matters which can in any way affect the Work under the Contract Documents. No verbal agreement or conversation with any officer, agent, or employee of the City, either before or after the execution of this Agreement or the assignment of any Project, shall affect or modify any of the terms or obligations contained in the Contract Documents.

7.7 Materials; Appliances; Employees. Unless otherwise stipulated, the Construction Manager shall provide and pay for all materials, fuel, labor, water, tools, sanitary facilities, power, transportation, and other facilities necessary for the execution and completion of the Work. Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of good quality. The Construction Manager shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

The City of Cocoa proudly supports and encourages buying USA domestic materials. Products incorporated into the Work shall be produced or manufactured in the United States of America as defined by the American Recovery and Reinvestment Act of 2009 (ARRA). This Project is not funded by the ARRA.

The City will not pay for material stored in place.

The Construction Manager shall at all times enforce strict discipline and good order among its employees and shall not employ on the Work any unfit person or anyone not skilled in the work assigned to him.

7.8 Royalties and Patents. The Construction Manager shall pay all royalties and license fees. The Construction Manager shall defend all suits or claims for infringement of any patent rights and shall save the City harmless from loss on account thereof except that the City shall be responsible for all such loss when a particular process or the product of a particular manufacturer or manufacturers is specified, unless the City has notified the Construction Manager prior to the signing of this Agreement or included in the specifications a proviso that there may be a patented process or product included in the Assigned Project.

7.9 Surveys, Permits, and Regulations. The Construction Manager will furnish all surveys unless otherwise specified. Permits and licenses necessary for the prosecution of the Work shall be secured and paid for by the Construction Manager. The Construction Manager shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the Work as drawn and specified. If the Construction Manager observes that the drawings and specifications are at variance therewith, it shall promptly notify the City in writing and any necessary changes shall be adjusted as provided in the contract for changes in the Work. If the Construction Manager performs any work knowing it to be contrary to such laws, ordinances, rules, and regulations and without such notice to the City, the Construction Manager shall bear all costs arising therefrom.

The Construction Manager shall continuously maintain adequate protection for all of its Work from damage and shall protect the City's property from injury or loss. The Construction Manager shall make good any such damage, injury, or loss. The Construction Manager shall adequately protect adjacent property as provided by law and the Contract Documents and shall provide and maintain all guard fences, lights, and other facilities for protection required by public authority or local conditions.

7.10 Inspection of Work. The City and its representatives shall at all times have access to the Work. The Work will be conducted under the general direction of the City and is subject to inspection by its appointed inspectors to ensure compliance with the terms of the Contract Documents. 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 Construction Manager 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 Construction Manager 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.

Re-examination of requested work may be ordered by the City. If such work is found in accordance with the Contract Documents, the City will pay the cost of re-examination and replacement provided the Construction Manager makes a claim therefor. If such work is found not in accordance with the Contract Documents, the Construction Manager shall pay such cost,

including compensation for professional services, and an appropriate deductive Change Order shall be issued.

7.11 Superintendent Supervision. The Construction Manager shall keep on the Project Site during its progress a competent superintendent satisfactory to the City. The superintendent shall not be changed except with the written consent of the City, unless the superintendent proves to be unsatisfactory to the Construction Manager and ceases to be in its employ. The superintendent shall represent the Construction Manager and all directions given to him shall be binding. Important directions will be confirmed in writing to the Construction Manager. Other directions will be so confirmed on written request in each case.

If the Construction Manager, in the course of the Work, finds any discrepancy between the drawings and the physical conditions of the locality, or any errors or omission in the drawings or in layout as given by points and instruction, it shall be the Construction Manager's duty to immediately inform the City, in writing, and the City will promptly verify the same. Any work done after such discovery, until authorized, will be done at the Construction Manager's risk.

Neither party shall employ or hire any employees of the other party without the other party's consent.

7.12 Changes in the Work. The City, without invalidating the contract, 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:

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

If none of the above methods is agreed upon, the Construction Manager, provided it receives an order as above, shall proceed with the work. In such case and also under case (C), the Construction Manager shall keep and present in such form as the City's Project Manager may direct, a correct account of the net cost of labor and materials, together with vouchers. In any case, the City's Project Manager will certify to the amount, including reasonable allowances for overhead and profit, due to the Construction Manager. Pending final determination of value, payments on account of changes will be made on the City's Project Manager's estimate.

7.13 Claims for Extra Cost. If the Construction Manager 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 in Section 7.12 (Changes in the Work). Claims will not be processed unless filed in writing before any work has commenced.

7.14 Deductions for Uncorrected Work. If the City's Project Manager deems it inexpedient to correct work injured or done not in accordance with the Contract Documents, an equitable deduction from the contract price will be made therefor by Change Order.

7.15 Delays and Extensions of Time. If the Construction Manager is delayed at any time in the progress of the Work by an act of neglect of the City or of its employees, or by any other contractor employed by the City, or by changes ordered in the Work or by strikes, lockouts, fire, unusual delay in transportation, unavoidable casualties or any causes beyond the Construction Manager's control, or by delay authorized by the City's Project Manager pending arbitration, or by any cause which the City's Project Manager may decide to justify the delay, then the time of completion will be extended for such reasonable time as the City's Project Manager may decide.

No such extension will be made for delay occurring more than seven (7) days before the claim is made in writing to the City's Project Manager. In the case of a continuing cause or delay, only one claim is necessary.

If no schedule or agreement stating the dates upon which drawings shall be furnished is made, then no claim for delay will be allowed on account of failure to furnish drawings until two (2) weeks after demand for such drawings and not then unless such claim be reasonable.

Notwithstanding the above, an extension of contract time, so granted, shall be the Construction Manager's sole and exclusive remedy for delay, disruption, interference, inefficiency, acceleration, hindrance, and costs thereto.

7.16 Correction of Work before Final Payments. The Construction Manager shall promptly correct all work condemned by the City's Project Manager as failing to conform to the Contract Documents, shall promptly replace and re-execute its own Work in accordance with the Contract Documents and without expense to the City, and shall bear the expense of making good all Work.

If the Construction Manager does not correct such condemned Work and material within ten (10) working days' time as fixed by written notice (punch list), the City may correct it at the expense of the Construction Manager. If the Construction Manager does not pay the expense of such correction within ten (10) days thereafter, the City may, upon ten (10) days written notice, deduct all the cost and expenses that should have been borne by the Construction Manager.

7.17 Suspension of Work. The City may at any time suspend the Work or any part thereof, by giving five (5) days' notice to the Construction Manager in writing. The Work shall be resumed by the Construction Manager within ten (10) days after the date fixed in a written

notice to resume the Work from the City to the Construction Manager. The City will reimburse the Construction Manager for expenses incurred in connection with the Work under the Contract Documents as a result of such suspension unless the suspension was ordered by the City's Project Manager to enforce the terms of the Contract Documents or for any violation of the Contract Documents.

7.18 City's Right to Reassign Work. If the Construction Manager should neglect to prosecute the Work properly or fail to perform any provision of the Contract Documents, the City, after three (3) days written notice to the Construction Manager, may, without prejudice to any other remedy it may have, make good such deficiencies at the Construction Manager's expense.

7.19 Removal of Equipment. In the case of annulment of this Agreement as to any Assigned Project before completion, from any cause whatever, the Construction Manager, if notified to do so by the City, shall promptly remove any part or all of its equipment and supplies from the property of the City, failing which the City will have the right to remove such equipment and supplies at the expense of the Construction Manager, and the City shall have the right to store such equipment and supplies at the Construction Manager's expense. The City shall incur no liability to the Construction Manager for loss or damage to the supplies and equipment so removed and/or stored.

7.20 Use of Completed Portions. The City will have the right to take possession of and use any substantially completed portion of the Work, notwithstanding the fact that the time for completing the entire Work or such portions may not have expired, but such taking possession and use will not be deemed an acceptance of any Work not completed in accordance with the Contract Documents. If such prior use increases the cost of or delays the Work, the Construction Manager will be entitled to such extra compensation, or extension of time, or both, as the City's Project Manager may determine.

7.21 Payments Withheld. The City may withhold or, on account of subsequently discovered evidence, nullify the whole or a part of any payment request to such an extent as may be necessary to protect itself from loss on account of:

A. Defective work not remedied.
B. Claims filed or reasonable evidence indicating probable filing of claims.
C. Failure of the Construction Manager to make payment properly to Subcontractors or for materials or labor.
D. The City's Project Manager's opinion that the contract cannot be completed for the balance then unpaid.
E. Failure to maintain adequate progress.

When the above grounds are removed, payment will be made for amounts withheld because of them.

7.22 Safety and Protection. The Construction Manager shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the

Work. The Construction Manager shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

A. All employees on the Project Site and other persons who may be affected thereby.
B. All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the Project Site.
C. Other property at the Project Site or adjacent thereto.

Construction Manager 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, Construction Manager 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 the City's Safety and Loss Control Program.

7.23 Damages. Any claim for damage arising under the Contract Documents shall be made in writing to the party liable within ten (10) days after the first observance of such damage and not later than the time of final payment, except as expressly stipulated otherwise in the case of faulty work or materials.

7.24 Liens. Anything contained in any of the Contract Documents notwithstanding, all progress payments and the final payment shall be paid by the City to the Construction Manager in compliance with the provisions of the Laws of Florida. The City shall withhold ten percent (10%) of the amount of each progress payment. The last payment due under the Contract Documents shall be paid by the City to the Construction Manager only after the Construction Manager has furnished the City with an affidavit stating that all persons, firms, or corporations who have furnished labor or materials, employed directly or indirectly in the Work, have been paid in full, and in addition, before the Construction Manager shall have the right to receive the final payment due under the contract, the Construction Manager shall furnish the City with releases of lien executed by all persons, firms, or corporations who have performed or furnished labor, services, or materials, directly or indirectly, used in the Work. The City shall have the right to demand and receive from the Construction Manger before it shall receive any progress payment, receipt bills showing payment in full for all labor, services, and materials incorporated into the Work, for the period of time for which the progress payment is due. Likewise, as a condition to receiving any progress payment, the City may require the Construction Manager to furnish any partial releases of lien executed by all persons, firms, and corporations who have furnished labor, services, or materials incorporated into the Work during the period of time for which the progress payment is due, releasing such lien rights as these persons, firms, or corporations may have for that period. If any of the laborers, subcontractors, or material men shall serve upon the City a "Notice to Owner" or shall otherwise put the City on notice that they are owed any unpaid money by the Construction Manager, the City shall have the right to pay these persons directly in the manner provided by Florida's Mechanic's Lien Law, and the City shall receive a credit therefor upon the contract price accordingly. The Construction Manager does hereby release, remise, and quit claim any and all

rights it would have otherwise enjoyed to perfect a mechanic's lien or any other type of statutory common law or equitable lien against the Work.

7.25 Subcontracts. The Construction Manager shall, as soon as practicable after signing the GMP Amendment, notify the City in writing of the names of subcontractors proposed for the Work and the description of work to be performed by each subcontractor. The Construction Manager shall not employ subcontractors unless they are approved in writing by the City.

The Construction Manager agrees that it is as fully responsible to the City for the acts and omissions of its Subcontractors and of persons either directly or indirectly employed by them as it is for the acts and omissions of persons directly employed by the Construction Manager. Nothing contained in the Contract Documents shall create any contractual relation between any Subcontractor and the City.

7.26 Points and Instructions. The Construction Manager shall provide reasonable and necessary opportunities and facilities for setting points and making measurements. It shall not proceed until he has made timely demand upon the City's Project Manager for, and has received from him such points and instructions as may be necessary as the Work progresses. The Work shall be done in strict conformity with such points and instructions.

7.27 City's Project Manager's Status. The City's Project Manager will have general supervision and direction of the Work. He has authority to stop the Work whenever such stoppage may be necessary to ensure the proper execution of the contract. He will also have authority to reject all work and materials that do not conform to the Contract Documents, to direct the application of forces to any portion of the Work, as in his judgment is required, to order the force increased or diminished, and to decide questions that arise in the execution of the Work.

7.28 City's Project Manager's Decisions. The City's Project Manager will, within reasonable time after their presentation to him, make decisions in writing on all claims of the Construction Manager and on all other matters relating to the execution and progress of the Work or the interpretation of the Contract Documents. All such decisions of the City's Project Manager shall be final.

7.29 One Year Correction Period. If within one (1) year after the date of substantial completion of an Assigned Project or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, the Construction Manager shall promptly, without cost to the City and in accordance with the City's written instruction, either correct such defective work, or, if it has been rejected by the City, remove it from the Project Site and replace it with non-defective work. If the Construction Manager does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, the City may have the defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, shall be paid by the Construction Manager.

8.0 LIQUIDATED DAMAGES FOR DELAY

8.1 Inasmuch as failure to substantially complete the Work according to the Assigned Project schedule will result in injury to the City, and as damages arising from such failure cannot be calculated with any degree of certainty, it is agreed that if the Work is not substantially completed within the time provided by the Assigned Project schedule, or within such further time, if any, as shall be allowed for time extensions in accordance with the provisions of the Contract Documents, the Construction Manager shall pay to the City as liquidated damages for such delay, and not as a penalty, the amount set forth in the GMP Amendment for each calendar day elapsing between the date fixed for substantial completion and the date such substantial completion is fully accomplished. The parties agree that said liquidated damages are reasonable given existing circumstances, including, without limitation, the range of harm that is foreseeable and the anticipation that proof of damages would be costly and impractical.

8.2 The liquidated damages shall be payable in addition to any excess expenses or costs payable by the Construction Manager to the City under the Contract Documents, and shall not preclude the recovery of damages by the City under other provisions of the Contract Documents, except claims related to Construction Manager's delays in substantial completion. The City's right to receive liquidated damages shall in no manner affect the City's right to terminate the Contract Documents, as provided in this Agreement or elsewhere in the Contract Documents. The City's exercise of the right to terminate shall not release the Construction Manager from the obligation to pay said liquidated damages.

8.3 When the City reasonably believes (i) that substantial completion will be inexcusably delayed; or (ii) that the Construction Manager will fail to achieve final completion by the date of final completion, the City shall be entitled, but not required, to withhold from any amounts otherwise due the Construction Manager the daily amount specified for liquidated damages for each calendar day of the unexcused delay. If and when the Construction Manager overcomes the delay in timely achieving substantial completion or final completion, or any part thereof, for which the City has withheld payment, the City shall promptly release to the Construction Manager those funds withheld, but no longer applicable, as liquidated damages.

9.0 AUDIT RIGHTS

9.1 The City may, upon reasonable notice, audit the records of the Construction Manager and its Subcontractors and suppliers during regular business hours, during the term of this Agreement and for a period of three (3) years after final payment is made by the City to Construction Manager for an Assigned Project or longer, if required by law. Such audits may be performed by a representative of the City or an outside representative engaged by City.

9.2 For purposes hereof, Construction Manager's "records" means any and all information, materials, and data of every kind and character, whether hard copy or in electronic form, which may, in City's judgment, have any bearing on or pertain to the Contract Documents, including, without limitation, books, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, written policies and procedures, time sheets, payroll registers, payroll records, cancelled payroll checks, subcontract

files (e.g., including proposals of successful and unsuccessful bidders, bid recap), original estimates, estimating work sheets, correspondence, Change Order files (including documentation covering negotiated settlements), back-charge logs and supporting documentation, invoices and related payment documentation, general ledgers, records detailing cash and trade discounts earned, insurance rebates and dividends, superintendent reports, drawings, receipts, vouchers, and memoranda.

9.3 City's authorized representative shall have reasonable access to the Construction Manager's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the Contract Documents, shall be provided adequate and appropriate work space at Construction Manager's facilities, may count employees at the Site, may be present for the distribution of payroll and shall have such other rights of access as may be reasonably necessary to carry out an audit.

9.4 If an audit discloses overpricing or overcharges, Construction Manager shall refund the overpayment. If an audit discloses overpricing or overcharges of one percent (1%) of the total amount paid hereunder, but in any event more than $200,000, whichever is less, in addition to making adjustments for the overcharges, the reasonable actual cost of the City's audit shall be reimbursed to the City by the Construction Manager. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the Construction Manager's invoices and/or records shall be made within ninety (90) calendar days from presentation of City's findings to Construction Manager.

9.5 Construction Manager shall ensure notice of City's audit rights is provided to its Subcontractors, suppliers, and any other vendor providing services or materials for each Assigned Project and shall ensure that each agreement it enters into pursuant hereto includes the provisions of this Article 9.0.

10.0 INSURANCE

10.1 Liability Amounts. During the term of this Agreement, Construction Manager shall be responsible for providing the types of insurance and limits of liability as set forth below.

a. Professional Liability. Proof of professional liability insurance shall be provided to the City for the minimum amount of $1,000,000 per occurrence and in the aggregate with a deductible not greater than $50,000.

b. General Liability. The Construction Manager shall maintain comprehensive general liability insurance in the minimum amount of $1,000,000 as the combined single limit for each occurrence, with a deductible no greater than $5,000, unless a higher deductible is pre-approved by the City Manager, to protect Construction Manager from claims of property damages and personal injury which may arise from any Services performed under the Contract Documents, whether such Services are performed by Construction Manager or by anyone directly employed by or contracting with Construction Manager.

c. Automobile Liability. The Construction Manager shall maintain comprehensive automobile liability insurance in the minimum amount of $1,000,000 per occurrence combined single limit for bodily injury, including wrongful death, and 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 Construction Manager or by anyone directly or indirectly employed by Construction Manager.

d. Workers' Compensation. The Construction Manager shall maintain, during the life of this Agreement, adequate Workers' Compensation Insurance and Employers' Liability Insurance in at least such amounts as are required by law for all of its employees performing Work for the City pursuant to this Agreement.

e. Environmental Impairment Insurance Minimum Requirements. If the Construction Manager will be locating portable fuel or lubricant storage tanks at the job site or will be storing or using hazardous chemicals on the job site, it shall maintain Environmental Impairment Insurance or "Pollution Insurance" with a limit of not less than $1,000,000 per occurrence and submit proof of same in the form of a certificate of insurance or an endorsement to its General Liability policy showing a pollution exclusion exception for each specific work product or storage container before work is begun.

f. Builder's Risk Insurance. If City and Construction Manager agree to proceed to construction on an Assigned Project under a GMP Amendment, then the Construction Manager shall, before any construction, acquire and maintain throughout the course of construction, Builder's Risk Insurance in a dollar amount equal to the full insurable value of the Work under the contract, which shall include "All Risk" coverage. The City shall be named as a "Loss Payee". The Construction Manager shall be responsible for equipment, materials, and supplies, to include the City's Direct Purchase equipment, until completion of the Assigned Project and acceptance by the City.

10.2 Special Requirements. Current, valid insurance policies meeting the requirements herein identified shall be maintained during the term of this Agreement. Renewal certificates shall be sent to the City thirty (30) days prior to any expiration date. There shall also be a thirty (30) day advance written notification to the City in the event of cancellation or modification of any stipulated insurance coverage. The City shall be an additional named insured on stipulated insurance policies included in Sections 10.1.b, 10.1.c, and 10.1.e herein, as its interest may appear, from time to time.

10.3 Cancellation, Change, or Non-Renewal. The insurance required by this Agreement shall include the liability and coverage provided herein, or as required by law, whichever requirements afford greater coverage. All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least thirty (30) days' prior written notice has been given to the City and Construction Manager by certified mail, return receipt requested. All such insurance shall remain in effect until final payment. In the event that Construction Manager shall fail to comply with the foregoing requirement, the City is authorized, but in no event shall be obligated, to purchase such insurance, and the City may bill Construction

Manager. The Construction Manager shall immediately forward funds to the City in full payment for said insurance. It is expressly agreed that neither the provision of the insurance referred to in this Agreement nor the City's acceptance of the terms, conditions, or amounts of any insurance policy shall be deemed a warranty or representation as to adequacy of such coverage. All insurance coverage shall be with insurer(s) rated as A+ by Best's Rating Guide (or equivalent rating and rating service as reasonably determined by the City Manager) and licensed by the State of Florida to engage in the business of writing of insurance or provided through the London Market for Professional Liability Insurance. The Construction Manager shall cause its insurance carriers, prior to the effective date of this agreement to furnish insurance certificates specifying the types and amounts of coverage in effect pursuant hereto, the expiration dates of such policies, and a statement that no insurance under such policies will be canceled without thirty (30) days' prior written notice to the City in compliance with other provisions of this Agreement. Further copies of all relevant policies will be provided to the City within thirty (30) days of the effective date of this agreement. If the City has any objection to the coverage afforded by or other provision of the insurance required to be purchased and maintained by Construction Manager in accordance with this Article 10.0 on the basis of its not complying with the Agreement, the City shall notify Construction Manager in writing thereof within thirty (30) days of the date of delivery of such certificates to the City. For all Work performed pursuant to this Agreement, Construction Manager shall continuously maintain such insurance in the amounts, type, and quality as required by the Agreement.

10.4 Independent Associates and Consultants. All independent associates and consultants employed by Construction Manager to perform any Services hereunder shall fully comply with the insurance provisions contained in this Article 10.0.

11.0 REPRESENTATIONS

11.1 The Construction Manager represents that the Services provided hereunder shall conform to all requirements of the Contract Documents; shall be consistent with recognized and sound CMAR practices and procedures; and shall conform to the customary standards of care, skill, and diligence appropriate to the nature of the Services rendered. The Construction Manager shall perform as expeditiously as is consistent with professional skill and care and the orderly progress of the Services to be performed hereunder. The Construction Manager's Services shall be consistent with the time periods established under Contract Documents. The Construction Manager shall provide the City with a written schedule for Services performed for each Assigned Project and such schedule shall provide for ample time for the City to review, for the performance of consultants (if any), and for the approval of submissions by authorities having jurisdiction over the Services. The Construction Manager's designated representative shall have the authority to act on Construction Manager's behalf with respect to the Services. In addition, Construction Manager's representative shall render decisions in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Services. Except with the City's knowledge and consent, Construction Manager shall not engage in any activity, or accept any employment, interest, or contribution that would reasonably appear to compromise Construction Manager's professional judgment with respect to the Services. The Construction Manager shall review laws, codes, and regulations applicable to Construction Manager's Services. The Construction

Manager's Services and construction shall comply with all applicable requirements imposed by all public authorities. The Construction Manager represents and warrants that it is familiar with, and accepts that it will perform the Services hereunder in a manner that complies with, all applicable requirements of law, codes, and regulations. The Construction Manager shall be responsible for the professional quality, technical accuracy, and the coordination of all plans, studies, reports, and other services furnished to the City under this Agreement. Unless this Agreement is terminated by the City, or terminated by Construction Manager for nonpayment of any proper invoices, or the City exercises its rights to perform the Services pursuant to Section 4.4 herein, Construction Manager shall be responsible for the satisfactory and complete execution of the Services described in the Contract Documents. The Construction Manager represents that it will carefully examine the scope of services required by the City in the Contract Documents, that it will investigate the essential requirements of the Services required by the Contract Documents, and that it will have sufficient personnel, equipment, and material at its disposal to complete the services set forth in the Contract Documents in a good professional and workmanlike manner in conformance with the requirements of the Contract Documents.

11.2 The Construction Manager represents that all principals, employees, and other personnel furnishing such Services shall be qualified and competent to perform the Services assigned to them and that such guidance given by and the recommendations and performance of such personnel shall reflect their best professional knowledge and judgment.

12.0 GUARANTEE AGAINST INFRINGEMENT

12.1 The Construction Manager guarantees that all Services performed under the Contract Documents for each Assigned Project shall be free from claims of patent, copyright, and trademark infringement. Notwithstanding any other provision of the Contract Documents, Construction Manager shall indemnify, hold harmless, and defend the City, its officers, directors, employees, agents, assigns, and servants from and against any and all liability, including expenses, legal or otherwise, for actual or alleged infringement of any patent, copyright, or trademark resulting from the use of any goods, services, or other item provided under this Agreement. Notwithstanding the foregoing, Construction Manager may elect to provide non-infringing services.

13.0 DOCUMENTS

13.1 Public Records. Pursuant to Section 119.0701, Florida Statutes, and other applicable public records laws, Construction Manager agrees that any records, documents, transactions, writings, papers, letters, computerized information and programs, maps, books, audio or video tapes, films, photographs, data processing software, writings or other material(s), regardless of the physical form, characteristics, or means of transmission, of Construction Manager related, directly or indirectly, to the services provided to the City under this Agreement and made or received pursuant to law or ordinance or in connection with the transaction of official business by the City, may be deemed to be a public record, whether in the possession or control of the City or Construction Manager. Said records, documents, transactions, writings, papers, letters, computerized information and programs, maps, books, audio or video tapes, films, photographs, data processing software, writings or other material(s), regardless of the physical form,

characteristics, or means of transmission of Construction Manager are subject to the provisions of Chapter 119, Florida Statutes, and may not be destroyed without the specific written approval of the City's designated custodian of public records.

IF THE CONSTRUCTION MANAGER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSTRUCTION MANAGER'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, City Clerk's Office, 65 Stone Street, Cocoa, FL 32922.

Construction Manager is required to and agrees to comply with public records laws. Construction Manager shall keep and maintain all public records required by the City to perform the services as agreed to herein. Construction Manager shall provide the City, upon request from the City Clerk, copies 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 by law. Construction Manager shall 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. Upon completion of the Agreement, Construction Manager shall transfer to the City, at no cost, all public records in possession of Construction Manager, provided the transfer is requested in writing by the City Clerk. Upon such transfer, Construction Manager shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. However, if the City Clerk does not request that the public records be transferred, Construction Manager shall continue to keep and maintain the public records upon completion of the Agreement and shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City Clerk, in a format that is compatible with the information technology systems of the City. Should the City not possess public records relating to this Agreement which are requested to be inspected or copied by the City or any other person, the City shall immediately notify Construction Manager of the request and Construction Manager shall then provide such records to the City or allow the records to be inspected or copied within a reasonable time. If Construction Manager does not comply with a public records request, the City may enforce this Section to the extent permitted by law. Construction Manager acknowledges that if Construction Manager does not provide the public records to the City within a reasonable time, Construction Manager may be subject to penalties under Section 119.10, Florida Statutes. The Construction Manager acknowledges that if a civil action is filed against Construction Manager to compel production of public records relating to this Agreement, the court may assess and award against Construction Manager the reasonable costs of enforcement, including reasonable attorney fees. All public records in connection with this Agreement shall, at any and all reasonable times during the normal business hours of Construction Manager, be open and freely exhibited to the City for the purpose of examination, audit, or otherwise. Failure by Construction Manager to grant such public access and comply with public records laws and/or requests shall be grounds for immediate unilateral cancellation of this Agreement by the City upon delivery of a written notice of cancellation. If Construction Manager fails to comply with this Section, and the City must enforce this Section, or the City suffers a third party award of attorney's fees and/or damages for violating Chapter 119, Florida Statutes, due to Construction Manager's failure to comply with this Section, the City shall collect from

Construction Manager prevailing party attorney's fees and costs, and any damages incurred by the City, for enforcing this Section against Construction Manager. And, if applicable, the City shall also be entitled to reimbursement of all attorneys' fees and damages which the City had to pay a third party because of Construction Manager's failure to comply with this Section. The terms and conditions set forth in this Section shall survive the termination of this Agreement.

a. Reuse of Documents. All documents, including but not limited to, drawings, specifications, and data or programs stored electronically or otherwise, prepared by Construction Manager and its independent contractors and associates pursuant to this Agreement or related exclusively to the Services described herein shall be owned by the City and may be reused by the City for any reason or purpose at any time. However, the City agrees that the aforesaid documents are not intended or represented to be suitable for reuse by the City or others on any undertaking other than the Work outlined in this Agreement. Any reuse for an undertaking other than for the Work without verification or adaptation by Construction Manager, or its independent contractors and associates if necessary, to specific purposes intended will be at the City's sole risk and without liability or legal exposure to Construction Manager.

b. Ownership of Documents. The City and Construction Manager agree that upon payment of fees due to Construction Manager by the City for a particular design, report, inventory list, compilation, drawing, specification, model, recommendation, schedule, or otherwise, said design, report, inventory list, compilation, drawing, specification, technical data, recommendation, model, schedule, and other instrument produced by Construction Manager in the performance of this Agreement, or any Work hereunder, shall be the sole property of the City, and the City is vested with all rights therein. The Construction Manager waives all rights of copyright in said design, report, inventory list, compilation, drawing, specification, technical data, recommendation, model, schedule, and other instrument produced by Construction Manager in the performance of this Agreement, and hereby assigns and conveys the same to the City whether in the possession or control of Construction Manager or not.

c. Preexisting Ownership Rights to Documents. Notwithstanding any provisions to the contrary contained in this Agreement, Construction Manager shall retain sole ownership to its preexisting information not produced and paid for by the City under this Agreement including, but not limited to, computer programs, software, standard details, figures, templates and specifications.

14.0 ASSIGNMENT

14.1 The Construction Manager shall not assign or subcontract this Agreement, any Contract Documents hereunder, or any rights or any monies due or to become due hereunder without the prior, written consent of the City. Any Subcontractors employed by Construction Manager for any Work required under this Agreement shall require prior written approval from the City, unless previously approved in the Contract Documents. Any attempt to assign or subcontract the responsibilities and payments under this Agreement without the express prior written consent of the City shall be grounds for termination of the Agreement.

14.2 If upon receiving written approval from the City, any part of this Agreement is subcontracted by Construction Manager, Construction Manager shall be fully responsible to the City for all acts and/or omissions performed by the subcontractor as if no subcontract had been made.

14.3 If the City determines that any Subcontractor is not performing in accordance with this Agreement, the City shall so notify Construction Manager who shall take immediate steps to remedy the situation.

14.4 The Construction Manager, prior to the commencement of any Work by any Subcontractor, Construction Manager shall require the Subcontractor to provide the City and its affiliates with insurance coverage as set forth by the City.

15.0 INDEPENDENT CONTRACTOR

15.1 At all times during the term of this Agreement, the Construction Manager and any approved Subcontractors shall be considered an independent contractor(s) and not an employee(s) of the City.

16.0 DEFAULT BY CONSTRUCTION MANAGER; CITY'S REMEDIES

16.1 In addition to the City's right to terminate this Agreement for convenience under Article 17.0 of this Agreement, the City also reserves the right to revoke and terminate this Agreement for a default and to rescind all rights and privileges associated with this Agreement, without penalty, based on a default including, but not limited to, any of the following circumstances, each of which shall represent a default and breach of this Agreement:

a. The Construction Manager defaults in the performance of any material covenant or condition of this Agreement and does not cure such other default within thirty (30) calendar days after written notice from the City 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 thirty (30) calendar days, in which case Construction Manager shall have such time as is reasonably necessary to remedy the default, provided Construction Manager promptly takes and diligently pursues such actions as are necessary therefore; or

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

c. A writ of garnishment shall be served on the City, seeking to reach funds due or to become due to Construction Manager;

d. The Government of the United States or any state or county shall garnish, distrain, attach, or seek to reach funds due or to become due to the Construction Manager;

e. The Construction Manager persistently or repeatedly refuses or fails, except in cases of which extension of time is provided, to supply enough properly skilled workmen or proper materials;

f. The Construction Manager fails to make prompt payment to Subcontractors or for material or labor;

g. The Construction Manager persistently disregards laws, ordinances, or the instructions of the City's Project Manager;

h. The Construction Manager has acted grossly negligent, as defined by general and applicable law, in performing the Services hereunder; or

i. The Construction Manager has committed any act of fraud upon the City; or

j. The Construction Manager has made a material misrepresentation of fact to the City while performing its obligations under this Agreement; or

k. The Construction Manager has assigned this Agreement or any Contract Documents without the City's prior written consent.

16.2 Notwithstanding the aforementioned, in the event of a default by Construction Manager, the City shall have the right to exercise any other remedy the City may have by operation of law, without limitation, and without any further demand or notice.

16.3 In the event of such termination upon default and breach of this Agreement, the City may take possession of the Project Site and of all materials, tools, and appliances thereon and finish the work by whatever method the City may deem expedient. Any completed services performed by Construction Manager under this Agreement shall, at the option of the City, become the City's property and Construction Manager shall be entitled to receive equitable compensation for any Work completed to the satisfaction of the City. The Construction Manager, however, shall not be relieved of liability to the City for damages sustained by the City by reason of any breach of the Agreement, and the City may withhold any payments to Construction Manager for the purpose of setoff until such time as the amount of damages due to the City from Construction Manager can be determined.

17.0 TERMINATION

17.1 Notwithstanding any other provision of this Agreement, the City may, upon written notice to Construction Manager, terminate this Agreement, without penalty, if: (a) Construction Manager is in default pursuant to Article 16.0 Default; (b) Construction Manager makes a general assignment for the benefit of its creditors; (c) Construction Manager fails to comply with any condition or provision of this Agreement; or (d) Construction Manager 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 the City may have under this Agreement.

17.2 If the Work should be stopped under an order of any court, or other public authority for a period of three (3) months, through no act or fault of the Construction Manager or anyone employed by it, or if the City's Project Manager should fail to issue any estimate for payment within seven (7) days after it is due, or if the City fails to pay the Construction Manager within twenty (20) days of its maturity and presentation, any sum certified by the Project Manager or awarded by arbitrators, then the Construction Manager may, upon seven (7) days written notice to the City, stop work or terminate this contract and recover from the City payment for all Work executed and any loss sustained upon any plant or materials and reasonable profit and damages.

17.3 In addition, either party may terminate for convenience without penalty at any time upon thirty (30) days advance written notice.

17.4 In the event of termination, City 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.

18.0 FORCE MAJEURE

18.1 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 (with the exception of Construction Manager's labor force); extraordinary breakdown of or damage to the City's affiliates' generating plants, their equipment, or facilities; court injunction or order; federal and/or state law or regulation; order by any regulatory agency; or cause or causes beyond the reasonable control of the party affected; 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. If any circumstance of Force Majeure remains in effect for sixty (60) days, either party may terminate this Agreement.

19.0 GOVERNING LAW & VENUE

19.1 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.

20.0 HEADINGS

20.1 Article, section, and paragraph headings are for the convenience of the parties only and are not to be construed as part of this Agreement.

21.0 SEVERABILITY

21.1 In the event any portion or part of this Agreement is deemed invalid, against public policy, void, or otherwise unenforceable by a court of law, the parties shall negotiate an equitable adjustment in the affected provision of this Agreement. The validity and enforceability of the remaining parts of this Agreement shall otherwise remain fully intact.

22.0 WAIVER AND ELECTION OF REMEDIES

22.1 Waiver by either party of any terms, conditions, or provisions of this Agreement shall not be considered a waiver of that term, condition, or provision in the future.

22.2 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.

23.0 THIRD PARTY RIGHTS

23.1 Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and Construction Manager.

24.0 PROHIBITION AGAINST CONTINGENT FEES

24.1 The Construction Manager warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Construction Manager, 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 Construction Manager, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the City shall have the right to terminate the Agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

25.0 ENTIRE AGREEMENT

25.1 The Contract Documents, including this Agreement and any schedules, attachments, appendices, and exhibits attached hereto, constitutes the entire agreement between the City and Construction Manager with respect to the Services specified and all previous representations relative thereto, either written or oral, are hereby annulled and superseded. Any Project-specific modifications to this Agreement will be set forth in the Contract Documents for the Assigned Project.

26.0 NO JOINT VENTURE

26.1 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.

27.0 ATTORNEY'S FEES

27.1 Should any litigation arise concerning this Agreement between the parties, the parties agree to bear their own costs and attorney's fees, whether at settlement, trial, or on appeal.

28.0 COUNTERPARTS

28.1 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.

29.0 DRAFTING

29.1 The City and Construction Manager 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.

30.0 NOTICE

30.1 Any notices required to be given by the terms of this Agreement shall be delivered by hand or mailed, postage prepaid to:

For Construction Manager:

Garney Companies, Inc.
Attention: _____
370 East Crown Point Road
Winter Garden, FL 34787
Phone: _____
Fax: _____

For City:

City of Cocoa
Attention: City Manager
65 Stone Street
Cocoa, FL 32922
(321) 433-8688 Phone
(321) 433-8698 Fax

30.2 Either party may change the notice address by providing the other party written notice of the change pursuant to this Article 30.0.

30.3 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.

31.0 SOVEREIGN IMMUNITY

31.1 The City 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 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. Construction Manager agrees that City shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, City 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 Section shall survive termination of this Agreement.

32.0 CORPORATE REPRESENTATIONS BY CONSTRUCTION MANAGER

32.1 The Construction Manager hereby represents and warrants to the City the following:

a. The Construction Manager 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 the Contract Documents.

b. The undersigned representative of Construction Manager has the power, authority, and legal right to execute and deliver this Agreement on behalf of Construction Manager.

33.0 INDEMNIFICATION AND LIMITATION OF LIABILITY

33.1 The Construction Manager shall defend, indemnify, and hold harmless the City, its officers, employees, agents, and volunteers, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of Construction Manager and other persons employed or utilized by Construction Manager in the performance of this Agreement and all Contract Documents.

The Construction Manager specifically assumes potential liability for actions brought by Construction Manager's own employees against the City and, solely for the purpose of this indemnification and defense, Construction Manager specifically waives its entitlement, if any, to immunity under Section 440.11, Florida Statues. This waiver has been specifically and mutually negotiated by the parties.

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

33.2 For other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Construction Manager expresses its willingness to enter into this Agreement with the knowledge that Construction Manager's recovery from the City to any action or claim arising from the Agreement is limited to a maximum amount of the sum of any Agreement amount that is owed by the City for Services actually performed by Construction Manager to the City's complete satisfaction, and in no case shall exceed the amount provided in Section 31.1 herein. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended either to be a waiver of the limitation placed upon the City's liability as set forth in Section 768.28 Florida Statutes, or to extend the City's liability beyond the limits established in said Section 768.28 Florida Statutes; and no claim or award against the City shall include attorney's fees, investigative costs, expert fees, suit costs, or pre-judgment interest.

33.3 PURSUANT TO SECTION 558.0035, FLORIDA STATUTES, AN INDIVIDUAL EMPLOYEE OR AGENT OF THE CONSTRUCTION MANAGER MAY NOT BE HELD INDIVIDUALLY LIABLE FOR ECONOMIC DAMAGES RESULTING FROM NEGLIGENCE UNDER THIS AGREEMENT IF THE CONDITIONS OF SECTION 558.0035 ARE SATISFIED.

34.0 BONDS

34.1 To the extent deemed necessary and required by the City, Construction Manager shall supply a materials, performance, and payment bond(s) in an amount specified in the Contract Documents for any Assigned Project, in a form approved by the City Attorney and in accordance with Florida law.

34.2 The City will have the right, prior to commencement of any Assigned Project, to require the Construction Manager to furnish bond(s) covering its faithful performance of the Work and the payment of all obligations arising thereunder, in such forms as the City may prescribe and with such sureties as it may approve. Performance and payment bonds in compliance with Section 255.05 Florida Statutes will be required for the Assigned Projects. The premium for such bond shall be paid by the Construction Manager.

35.0 ADDITIONAL ASSURANCES

35.1 The Construction Manager for itself and its Subcontractors, if any, certifies that:

a. No principal (which includes officers, directors, or executives) 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 architecture, landscape architecture, engineering, or surveying activity by any Federal, State, or local governmental commission, department, corporation, subdivision, or agency;

b. No principal (which includes officers, directors, or executives) or 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 City; and;

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

d. The undersigned is authorized to execute this Agreement on behalf of Construction Manager and said signature shall bind Construction Manager to this Agreement. No further action is required by Construction Manager to enter into this Agreement other than Construction Manager's undersigned representative's execution of the Agreement.

IN WITNESS WHEREOF, the parties hereto caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

CITY:
CITY OF COCOA

By: _____

Print Name: Matthew Fahrer

Title: Assistant City Manager (Acting)

CONSTRUCTION MANAGER:
GARNEY COMPANIES, INC.

By: _____

Print Name: Timothy M Bekker

Title: COO- PLANT EAST

ATTEST:

By: _____
Carie Shealy, City Clerk

CITY OF COCOA FLORIDA SEAL

By: _____

Print Name: _____

GARNEY COMPANIES, INC. CORPORATE SEAL MISSOURI

Garney CONSTRUCTION
ADVANCING WATER
370 E. Crown Point Rd.
Winter Garden, FL 34787
(407) 877-5903
(407) 877-5912 Fax

Letter of Transmittal

Transmittal No. 0001 0660

Date: 1/3/2019

TO: City of Cocoa
65 Stone Street
Cocoa, FL 32922

Job #: CMAR Master Services Agreement
City of Cocoa

Attn: City Manager

We are sending you [X] Attached OR [ ] Under a separate cover via FedEx the following items:

[ ] Shop Drawings [ ] Purchase Order [ ] Plans [ ] Samples [ ] Specifications
[ ] Copy of Letter [ ] Change Order [ ] Other: _____

Copies	Number	Description
1		Partially Executed CMAR Master Services Agreement

THESE ARE TRANSMITTED as checked below:

[ ] Information [ ] For approval [ ] Re-submit ___ copies for approval by _____
[X] As requested [ ] Approved as noted [ ] Submit ___ copies for distribution by _____
[X] Signature [ ] Approved as submitted [ ] Return ___ corrected prints by _____
[ ] For review and comment [ ] Other: _____
[ ] FOR BIDS DUE _____

Remarks

Please return a fully executed copy for our files.

1/3/19
Signed Date

Tracy Winsor
Transmitted By: Tracy Winsor

RECEIVED
JAN 0 4 2019
OFFICE OF THE CITY CLERK

MASTER SERVICES AGREEMENT
Construction Manager at Risk (CMAR) Services for
Specified Water and Wastewater System Projects

THIS AGREEMENT is made and entered into this 20th day of December, 2018, by and between the **CITY OF COCOA**, a Florida municipal corporation ("City"), located at 65 Stone Street, Cocoa, Florida 32922, and **PETTICOAT-SCHMITT CIVIL CONTRACTORS, INC.**, a Florida corporation ("Construction Manager"), whose principal address is 6380 Philips Highway, Jacksonville, Florida 32216.

WITNESSETH:

WHEREAS, the City desires to obtain construction manager at-risk (CMAR) services to include pre-construction and construction phase services for identified projects for the City's water and wastewater systems from time to time and on an as-needed, project-specific basis; and

WHEREAS, the City has followed the selection and negotiation process set forth in the Florida's Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes specifically for the projects that are identified in RFQ #Q-19-04-COC and set forth herein; and

WHEREAS, Construction Manager participated in the selection and negotiation process under RFQ #Q-19-04-COC and desires to provide CMAR services if the City assigns one or more of the identified projects to the Construction Manager after the effective date of this Agreement; and

WHEREAS, Construction Manager is willing to provide such CMAR services to the City under the terms and conditions stated herein; and

WHEREAS, the City is willing to place Construction Manager on its list of pre-approved CMAR services consultants for the aforementioned projects.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

1.0 DEFINITIONS. The following words and phrases used in this Agreement shall have the following meaning ascribed to them unless the context clearly indicates otherwise:

1.1 "Agreement" shall refer to this Master Services Agreement, as may be amended from time to time, which shall constitute authorization for Construction Manager to provide CMAR services approved on an individual basis by the City.

1.2 "Assigned Project" means each individual Project for which Construction Manager is assigned by the City to provide Services pursuant to the project bidding procedure set forth in Paragraph 4.1 of this Agreement.

1.3 **"Change Order"** shall mean a written order signed by the City authorizing an addition, deletion, or revision in the Work or adjustment in the contract price or time.

1.4 **"Construction Manager"** shall mean Petticoat-Schmitt Civil Contractors, Inc., a Florida corporation, and its principals, employees, and resident project representatives (and assistants).

1.5 **"Contract Documents"** consist of the following items, including all modifications thereof, incorporated into the documents before their execution: this Agreement; Notice to Firms; Instructions to Bidders; Special Provisions; GMP Amendment; Technical Specifications; Proposal; Performance/Payment Bond; Drawings; and Addenda pertaining to the contract.

1.6 **"Contractor's Fee"** is the Construction Manager's profit for the construction phase work for each Project, expressed as a percentage of the cost of construction.

1.7 **"Design Engineer"** means the engineering team retained by the City to create the design and specifications for the Project. The Design Engineer is the Engineer of Record for the Project.

1.8 **"Effective Date"** shall be the date on which 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 go into effect until said date.

1.9 **"GMP Amendment"** is a document that outlines the scope of the Work, the technical documents, assumptions, clarifications, technical exclusions, the project schedule, and the GMP Proposal for the Project. The executed GMP Amendment shall automatically become part of the Contract Documents and shall establish the GMP, key supervisory personnel for the Project, the contract duration for the Project, liquidated damages dollar amount per calendar day, and all required bond and insurance documents.

1.10 **"GMP Proposal"** is a price proposal that includes the Construction Manager's General Conditions Fee, cost of the construction Work, payment and performance bond costs, building permit allowance, insurance costs, project construction contingency, and Contractor's Fee. The GMP Proposal shall be based on the drawings and specifications and the Contract Documents.

1.11 **"Guaranteed Maximum Price"** or **"GMP"** is the construction price agreed to between the Construction Manager and the City (as set forth in the GMP Amendment) and is the maximum total Project price that the Construction Manager guarantees not to exceed for the Construction Phase of the Assigned Project. It shall not include the services rendered during the Pre-Construction Phase.

1.12 **"General Conditions Fee"** is the overhead for services for the Construction Phase, exclusive of physical construction, expressed as a percentage of the cost of the construction Work.

1.13 "Open-Book Process" is the process used for establishing costs and subsequent GMP. The process requires the cost to be developed in a completely transparent manner, with no hidden costs or inflated amounts. Transparency means full, confidential disclosure of all the details and can include third party verification, if required. Construction estimates should be based on the actual cost of the Work. This can mean actual labor, expenses, materials, equipment, and production rates for the self-performed scope, combined with stand-alone subcontractor quotes obtained via best-value, competitive bidding approach.

1.14 "Project(s)" means only those projects that were identified in RFQ #Q-19-04-COC, as listed in Paragraph 3.1 of this Agreement.

1.15 "Project Manager" is the person designated by the City to provide direct interface with the Construction Manager with respect to the City's responsibilities, as identified on the specifications for each Project.

1.16 "Project Site" is the location of the Project, as identified on the specifications for each Project.

1.17 "Project Team" is comprised of the Construction Manager, the City, and the Design Engineer.

1.18 "Public Record" shall have the meaning given in Section 119.011(12), Florida Statutes, as may be amended.

1.19 "Subcontractor" includes only those having a direct contract with the Construction Manager, and includes one who furnished material worked to a special design according to the plans or specifications of this Work, but does not include one who merely furnishes material not so worked.

1.20 "Value Engineering" is a project evaluation technique used during the Pre-Construction Phase that seeks to reduce costs and/or increase value by analyzing the functional requirements of a Project's materials, methods, components, and subsystems consistent with specified performance, reliability, maintainability, aesthetic, safety, and security criteria to ensure that it provides the best use of available Project funds.

1.21 "Work" or **"Services"** shall be used interchangeably and shall include the performance of the work agreed to by the parties for each Assigned Project, consistent with the projects described in Paragraph 3.1 of this Agreement. Work includes labor or materials or both, equipment, transportation, or other facilities necessary to complete the contract.

2.0 TERM OF AGREEMENT

2.1 The term of this Agreement shall commence on the Effective Date and shall continue until the completion of the Projects described in Section 3.1 below, unless earlier terminated pursuant to the terms of this Agreement. Unless otherwise specified in a notice of termination, any Assigned Project in effect at the termination of this Agreement shall remain in

effect until completion of said Assigned Project, and all of the terms and conditions of this Agreement shall survive until completion of all Assigned Projects.

3.0 GENERAL DESCRIPTION OF SERVICES

3.1 Projects. The Projects for which Construction Manager may be assigned by the City to provide services under this Agreement are limited to the following:

Water Projects

The Claude H. Dyal Water Treatment Plant (Dyal WTP) consists of a surface water treatment plant with a rated capacity of 12 MGD, expandable to 24 MGD, and a fully built out ground water treatment plant rated to treat 60 MGD. Average daily flows from the Dyal WTP annually are approximately 22.7 MGD. The disinfection system in place utilizes 4 ammoniators and 11 chlorinators, with associated storage and supply systems.

A. Chemical Conversion and Reliability Improvements Project
   - Chlorine gas and anhydrous ammonia conversions at the Dyal WTP.
   - Installation of a redundant 54-inch pump discharge transmission main and associated flow meter and vault. Included in this portion of work are new Generator and High Service Pump Buildings to include; associated mechanical piping, flow meter and vault, controls, piping connecting transfer pump line to suction line, new emergency generators, and refurbishment and relocation of the existing high service pumps #2 and #3.
   - Addition of a pressurized water main to create a loop to feed the existing 8 inch main loop on the south half of the plant site.
   - Plant site improvements to include a new maintenance/training building, modifications to the plant main entrance road, improvements to main entrance security, other security improvements, and associated drainage improvements.

B. Banana River Pump Station Improvements
   - Replacement of the two existing 2MG tanks at the Banana River Tank Site
   - Improvement to the chemical feed systems

C. Viera Pump Station Chloramination Conversion
   - Change existing chlorination system to a chloramination system to include new chemical injection system and associated infrastructure

D. Groundwater Filter Effluent Pipe Connection to Surface Water Clearwell
   - Connection of the groundwater filter effluent to the new surface water clearwell effluent pipe

E. Improvements to the Ozone System at the Dyal WTP
   - Chiller Replacement and Generator Improvements
   - Improvements to the Ozone System Contactor

F. Re-Carbonation Basin Expansion, Reconfiguration, and Improvements

G. Installation of third Sulfuraetor and Multipurpose Building at the Wewahootee site

H. Replacement of Dyal Finished Water 5MG Steel Ground Storage Tank

I. Surface Water (SW) Dewatering Improvements
   - Update of the SW polymer feed system and associated controls.
   - Building improvements to include HVAC and structural repairs

J. Rehabilitation of the Lime Residual Gravity Thickener Nos. 1, 2, and 3
   - Complete replacement of Gravity Thickener No. 3
   - Rehabilitation of Gravity Thickener Nos. 1 and 2
   - Dewatering Storage Improvements
   - Building Improvements

K. Wellfield Security Improvements
   - Increased security of our western wells to include fencing, cameras, lighting, and motion sensors.
   - Includes associated fiber installation

Wastewater Projects

The Jerry Sellers WRF is a 4.5 MGD AADF biological nutrient removal (BNR) facility providing tertiary treatment to allow wastewater effluent to be reclaimed for use in landscape irrigation. The BNR process is a modified five-stage Bardenpho process designed to remove carbonaceous biological oxygen demand (CBOD5), total nitrogen, and total phosphorus. Secondary clarification and tertiary filtration are provided to remove total suspended solids (TSS), followed by disinfection.

A. Biosolids Improvements Project
   - Improvements to the Jerry Sellers WRF biosolids treatment, including the replacement of existing belt filter presses and improvements to the existing building, addition of Aerobic Digester No. 3, and the replacement of the Aerobic Digester Blowers.

B. Chemical Storage Relocation
   - Relocating the chemical storage and feed facilities for greater control and automation of the process.

C. Internal Recycle Pump Replacement

D. Local Control Panel (LCP) # 1 Rehabilitation

E. Reclaimed Water Pump Replacements

F. Replacement of Motor Control Center (MCC) #7 and #8

G. Transfer Pump Replacements

H. Construction of valve vault and replacement of valves located near the digesters

The above are general descriptions of the Projects and will be further defined and clarified by the City during the term of this Agreement.

3.2 Definition of Services. The Construction Manager agrees to furnish its best skill and judgment and to cooperate with the Design Engineer, where applicable, in furthering the interests of the City. The Construction Manager agrees to furnish efficient business administration and superintendence and to use its best efforts to complete each Assigned Project in an expeditious and economical manner consistent with the interests of the City. The Construction Manager agrees to furnish construction services as set forth herein and required for completion of each Assigned Project on a guaranteed maximum price basis. The Construction Manager represents that it is thoroughly familiar with and understands the requirements of the referenced Projects and that it is experienced in the administration and construction of building projects of the types and scopes referenced above. The Construction Manager represents to the City that it has all necessary construction education, skill, knowledge, and experience required for these Projects and will maintain, at all times during the term of this Agreement, such personnel on its staff to provide the Services contemplated hereby within the time periods required for each Assigned Project. In addition, Construction Manager represents that it has, and all of the Subcontractors performing Services under this Agreement will have, all applicable licenses required by the State of Florida to perform such Services. The Construction Manager acknowledges that it is not guaranteed nor entitled to provide services to the City in connection with any particular Project by virtue of entering into this Agreement with the City and that the City may, in its sole discretion, decline to assign any Project to Construction Manager.

3.3 Project Team. The Construction Manager, the City, and the Design Engineer will work as a team through construction completion of each Assigned Project. The Construction Manager shall provide leadership to the Project Team on all matters relating to construction. The Design Engineer will provide leadership to the Project Team on all matters relating to design. When performing any Services under this Agreement, the Construction Manager shall utilize the key personnel described in the GMP Amendment. In the event any such personnel discontinue employment with Construction Manager, Construction Manager shall promptly replace such personnel with individuals approved by the City, in writing, which approval will not be unreasonably withheld.

3.4 Project Schedule/Time of the Essence. For each Assigned Project, the Construction Manager will provide the City with a preliminary schedule covering the Pre-Construction and Construction Phases. This preliminary schedule shall serve as the framework for the subsequent development of all detailed construction schedules described in this Agreement or the Contract Documents. The Construction Manager shall at all times carry out its duties and responsibilities as expeditiously as possible and in accordance with the Assigned Project schedule, subject to delays in the schedule not the fault of the Construction Manager or its Subcontractors. Time is of the essence in the performance of this Agreement.

3.5 Preparation/Sufficiency of Site. The Construction Manager 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 Assigned

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 Assigned Project; (iii) familiarize itself with the City's layout and design requirements, conceptual design objectives, and budget for the Assigned Project; (iv) familiarize itself with pertinent Assigned Project dates, including the Assigned Project schedule; (v) review and analyze all Assigned 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 Assigned Project. If the Assigned Project involves modifications to any existing structure(s) or other man-made feature(s) on the Project Site, the Construction Manager shall also review all as-built and record drawings, plans, and specifications of which the Construction Manager has been informed by 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 Construction Manager resulting from its failure to familiarize itself with the Project Site or pertinent documents shall be deemed waived.

3.6 Contract Documents. The Contract Documents are complementary, and what is called for by any one shall be as biding as if called for by all. The intent of the Contract Documents is to include all labor, materials, equipment, transportation, and incidentals necessary for the proper and complete execution of the Work for each Assigned 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.

3.7 Priority of Documents. In the event of discrepancies among the Contract Documents, priority shall be given in the following order:

First	GMP Amendment
Second	This Agreement, including all Exhibits
Third	Proposal
Fourth	Special Provisions
Fifth	Instructions to Bidders
Sixth	Technical Provisions
Seventh	Drawings
Eighth	Performance and Payment Bonds

4.0 CITY'S DUTIES, OBLIGATIONS & RESPONSIBILITIES

4.1 Project Information; Bidding. When a Project is developed by the City, it will notify the Construction Manager of the Project in the form of a bid document and will supply relevant information concerning the Project (for example, specifications, design drawings, sketches, schedule expectations, and budget). Construction Manager will be given the opportunity to submit a proposal based on the Project information supplied by the City. The proposal shall include the Construction Manager's Pre-Construction Phase Services Fee (lump sum amount), General Conditions Fee (percentage of the estimated cost of construction), Contractor's Fee

(percentage of the estimated cost of construction), and insurance and bond costs (percentage of the estimated cost of construction). Construction Manager's response time for developing a proposal when notified of a Project will be based on the type of work to be assigned and will be stipulated by City in the bid document. If a site visit is required for the Project, the City shall state that in the bid document to Construction Manager.

The City will review the proposals submitted and select based on the lowest, most responsive bid. Upon selection, the City will issue (i) a Notice to Proceed and (ii) an executed City purchase order to Construction Manager.

4.2 City's Budget. The City shall establish and update a budget for each Project, including the amount allocated for construction, the City's other costs, and reasonable contingencies related to these costs as appropriate.

4.3 City's Representative. The City shall designate a Project Manager as its representative authorized to act on its behalf with respect to each Project.

4.4 Reservation of Rights; No Guarantee. The City reserves the right, at its discretion, to perform any services related to this Agreement or to retain the services of other construction management companies to provide professional services. The City does not guarantee that any Work will be assigned to Construction Manager under this Agreement. The City reserves the right to assign or contract for professional services with any party in its sole discretion. No provision of this Agreement shall be construed to require the City to assign any Work or Project to Construction Manager under this Agreement.

4.5 Time for Performance. The City shall review and approve or take other appropriate action on all design submittals within the timeframes set forth in the Assigned Project schedule.

4.6 Purpose of City's Review. 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 each Assigned Project. No review, inspection, or approval by the City of such Work or documents shall relieve the Construction Manager 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 Construction Manager 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 Construction Manager 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 Design Engineer to the Construction Manager if the City becomes aware of any fault or defect in the Assigned Project or non-conformance with the Contract Documents.

4.7 Status of City. 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 Construction Manager, for any of the foregoing purposes, be deemed the agent of the City.

4.8 City's Utilities. The Construction Manager shall be responsible to provide and pay for consumption of, and connections to, utilities required for temporary service and construction unless otherwise directed by the City.

5.0 CONSTRUCTION MANAGER'S SERVICES. The Construction Manager's Services to be provided hereunder shall include, but are not limited to, those described or specified herein. The services described or specified shall not be deemed to constitute a comprehensive specification having the effect of excluding services not specifically mentioned.

5.1 General Project Services. For each Assigned Project, the Construction Manager agrees to:

a. Identify a representative authorized to act as the project manager on behalf of the Construction Manager. This person shall be designated at the beginning of the Pre-Construction Phase and shall be the project manager through completion of the Construction Phase. The designee will need to be approved by the City and no substitutions will be allowed without prior written approval by the City.

b. Provide all services required to professionally complete the Work in an expeditious and economical manner consistent with the Contract Documents and the best interests of the City.

c. Endeavor to develop, implement, and maintain, in consultation with the City, Design Engineer, and subcontractors, a spirit of cooperation, collegiality, and open communication among the parties so that the goals and objectives of each are clearly understood, potential problems are resolved promptly, and, upon completion, the Assigned Project is deemed a success by all parties.

d. Perform the Services in accordance with schedule requirements.

e. Participate in, and cooperate with, design phase, construction phase, and post-occupancy commissioning, validation, and other quality assurance and quality control processes.

f. Complete all Work by the required date of substantial completion. The Construction Manager shall submit an initial construction schedule within the timeframe set by the City; a final construction schedule with the GMP Proposal; and revised construction schedules in accordance with the Contract Documents. The construction shall complement, and shall not conflict with, the design schedule.

g. Comply with City's policies, project management guides, and all requirements of the Contract Documents.

h. Expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. If the City agrees to procure any items prior to the establishment of the GMP pursuant to Section 5.5 below, the City shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the GMP, the City shall assign all contracts for these items to the Construction Manager, and the Construction Manager shall thereafter accept responsibility for them.

5.2 Pre-Construction Phase Services.

a. Scope of Services. The Construction Manager's Pre-Construction Phase Services for each Assigned Project will be set forth in the "Scope of Services" section of the Instruction to Bidders for the Project.

b. Commencement of Services. Construction Manager shall commence performance of Pre-Construction Phase Work within ten (10) days after receipt from the City of both the executed purchase order and the Notice to Proceed. The Pre-Construction Phase shall be complete once the GMP Proposal has been submitted by the Construction Manager, approved by the City, and made a part of the Contract Documents. The GMP Proposal shall be submitted at the ninety percent (90%) design phase, which shall be dictated by the design schedule.

c. Project Kick-Off Meeting. Within ten (10) calendar days following receipt of the Notice to Proceed/original purchase order, a mandatory project kick-off meeting will be held with the City and Design Engineer to discuss the Pre-Construction Phase Work and support of the City's Design Engineer in developing the design.

5.3 Guaranteed Maximum Price Proposal.

a. At ninety percent (90%) completion, the Construction Manager shall prepare a GMP Proposal for the City's review and acceptance. The GMP Proposal shall include the Construction Manager's General Conditions fee, cost of the construction Work, payment and performance bond costs, building permit allowance, insurance costs, project construction contingency, and Contractor's Fee. The GMP Proposal shall be based upon the drawings and specifications and the Contract Documents.

b. The GMP will include an amount agreed upon by the City and Construction Manager as a contingency to be used to pay for unforeseeable conditions. Unforeseeable condition expenditures require prior written consent of the City before execution of the work.

c. The Construction Manager shall include with the GMP Proposal a written statement of its basis, which shall include the following:

(i) A list of the drawings and specifications, including all addenda thereto, and the conditions of the contract;

(ii) A list of the clarifications and assumptions made by the Construction Manager in preparation of the GMP Proposal, including assumptions, permits, bonds, insurance, and all items required to complete the Project, to supplement the information provided by the City and contained in the drawings and specifications;

(iii) A statement of the proposed GMP, including a statement of the estimated cost of the Work organized by trade categories or systems, allowances, contingency, and the Construction Manager's fee;

(iv) The anticipated construction schedule and date of substantial completion upon which the proposed GMP is based; and

(v) A mutually agreeable date by which the City must accept the GMP.

d. The Construction Manager shall meet with the City to review the GMP Proposal. In the event that the City discovers any inconsistencies or inaccuracies in the information presented, it shall promptly notify the Construction Manager, who shall make appropriate adjustments to the GMP Proposal, its basis, or both.

e. If the City notifies the Construction Manager that the City has accepted the GMP Proposal in writing by the date specified in the GMP Proposal, the GMP Proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of the GMP, the City and the Construction Manager shall execute the GMP Amendment. The GMP Amendment shall outline the scope of Work, the technical documents, any assumptions, clarifications, or technical exclusions, the Assigned Project schedule, liquidated damages dollar amount per day, and the GMP Proposal for the Assigned Project.

f. The Construction Manager shall not incur any cost to be reimbursed associated with the Construction Phase of the Work prior to the commencement of the Construction Phase, unless the City provides prior written authorization for such costs.

g. The City shall authorize the Design Engineer to provide the revisions to the drawings and specifications to incorporate any agreed-upon assumptions and clarifications contained in the GMP Amendment. The City shall promptly furnish those revised drawings and specifications to the Construction Manager as they are revised. The Construction Manager shall notify the City of any inconsistencies between the GMP Amendment and the revised drawings and specifications.

5.4 Construction Phase Services.

a. Scope of Services. The Construction Manager's Construction Phase Services for each Assigned Project will be set forth in the "Scope of Services" section of the Instruction to Bidders for the Project.

b. Commencement of Services. Construction Manager shall commence performance of Construction Phase Work upon the City's acceptance of the Construction Manager's GMP Proposal and the execution of the GMP Amendment. The commencement and completion time of the Construction Phase of the Work and the liquidated damages dollar amount per calendar day shall be included in the GMP Amendment.

c. Construction Phase Conference. Within twenty (20) days after the effective date of the GMP Amendment, but before the Construction Manager starts the Construction Phase, a mandatory pre-construction conference will be held at the Project Site for review and acceptance of the schedules, to establish procedures for handling shop drawings and other submittals and for processing applications for payment, and to establish a working understanding among the parties as to the Work

5.5 Direct Purchase Program. The City may elect to implement a direct purchase program whereby it may purchase materials and equipment included in any subcontractor's bid for a portion of the Work directly from the supplier of such materials or equipment in order to achieve sales tax savings. Such materials and equipment are referred to as "Direct Purchase Materials." If City elects to implement a direct purchase program, it shall so notify Construction Manager in writing, and the terms of this paragraph shall govern, along with City's policies on the subject in effect at the time Construction Manager commences construction of the Assigned Project. The minimum value for a direct purchase shall be $100,000. The Construction Manager shall obtain Builder's Risk insurance on the Direct Purchase Materials naming the City as the insured or an additional insured, provided City shall reimburse Construction Manager for the cost of such insurance as provided by this Agreement. Construction Manager shall be responsible for safeguarding all Direct Purchase Materials on the Project Site on City's behalf.

6.0 CONTRACT SUM.

6.1 Payments to Construction Manager. The City will pay the Construction Manager as follows, with the specific amounts and/or percentages to be set forth on each Assigned Project-specific proposal as agreed to and accepted by the City.

a. Pre-Construction Services Fee. The fixed fee for the Construction Manager's Pre-Construction Services, which fee includes all direct and indirect costs incurred by the Construction Manager in the proper performance of the Pre-Construction Services.

b. General Conditions Fee. The General Conditions Fee for the Construction Phase, exclusive of physical construction, expressed as a percentage of the cost of the Construction Phase Work for the Project.

c. Contractor's Fee. The Construction Manager's profit for the Construction Phase Work, expressed as a percentage of the cost of construction Work for the Assigned Project.

d. Bonds. The Construction Manager's performance and payment bonds as required by the Contract Documents, expressed as a percentage of the cost of construction Work for the Assigned Project.

e. Insurance. The Construction Manager's insurance costs for the Project as required by the Contract Documents, expressed as a percentage of the cost of construction Work for the Assigned Project.

6.2 Guaranteed Maximum Price. The GMP is the construction price agreed to between the Construction Manager and the City (as set forth in the GMP Amendment) and is the maximum total price that the Construction Manager guarantees not to exceed for the Construction Phase of the Assigned Project. The GMP does not include the services rendered during the Pre-Construction Phase.

a. The GMP Amendment is a document that outlines the scope of the Work, the technical documents, assumptions, clarifications, technical exclusions, Project schedule, and GMP Proposal for the Assigned Project. The executed GMP Amendment shall automatically become a part of the Contract Documents and shall establish the GMP, the key supervisory personnel for the Assigned Project, the contract duration for the Assigned Project, liquidated damages dollar amount per day, and all required bond and insurance documents.

b. If the City and the Construction Manager are unable to agree on a GMP for the Construction Phase, the City shall terminate this Agreement as to that Assigned Project and direct the Design Engineer to complete the design and prepare construction drawings and specifications for public bidding of the Construction Phase of the Project. The Construction Manager shall not be permitted to submit a bid for the public bidding of the Construction Phase of the Project.

c. The Construction Manager guarantees that the contract sum (exclusive of the Pre-Construction Services Fee) shall not exceed the GMP set forth in the GMP Amendment, as it may be modified from time to time. To the extent the cost of the Work exceeds the GMP, the Construction Manager shall bear such costs in excess of the GMP without reimbursement or additional compensation from the City.

d. The GMP is subject to additions and deductions by Change Order as provided in the Contract Documents, and the dates of substantial and final completion shall be subject to adjustment as provided in the Contract Documents.

6.3 Construction Manager's Contingency.

a. The Construction Manager's contingency, established in the GMP, may be utilized, with the City's concurrence, for the following reasons:

(i) errors and omissions in the Construction Manager's bidding and scoping processes;

(ii) reasonable schedule recovery;

(iii) means, methods, and materials reasonably inferred from the Contract Documents;

(iv) subcontractor non-performance or default;

(v) Work not included in the Contract Documents that is necessary to cause the Assigned Project to conform to applicable building codes but was not identified as missing during the review of Contract Documents (through no fault of the Construction Manager), but expressly excluding any legal costs and expenses, including, without limitation, attorneys' fees and costs, associated with the Assigned Project;

(vi) other costs incurred by the Construction Manager that are not cost of the Work or General Conditions cost, for provision of management services necessary to complete the Assigned Project in an expeditious and economical manner consistent with the Contract Documents and the best interests of the City, but expressly excluding any legal costs and expenses, including, without limitation, attorneys' fees and costs, associated with the Assigned Project.

b. If upon completion of seventy-five percent (75%) of the Work, the remaining amount of contingency exceeds one-half of the amount of the initial post-buyout contingency, such excess shall be transferred via Change Order to the City.

6.4 Buyout Savings.

a. If Construction Manager receives bids for portions of the Work that are less than the amounts budgeted in the GMP proposal approved by City for such portions of the Work, such buyout savings shall first be utilized to offset shortfalls on other bid packages.

b. If, after offsetting any shortfalls, buyout savings remain, at the time provided in the Project schedule for the award of subcontracts, all buyout savings shall be returned to the City via "no cost" Change Order.

c. Use of Buyout Savings/Sales Tax Savings. The net amount of buyout savings and savings from City's purchase of Direct Purchase Materials may be utilized by the City for the following or other reasons:

(i) City's or Design Engineer's requested changes;

(ii) additive bid alternates and deductive credits;

(iii) design errors or omissions in the Contract Documents that were not detected by the Construction Manager through no fault of Construction Manager, including Work necessary to cause the Assigned Project to conform to applicable building codes;

(iv) differing/unforeseen existing conditions, as permitted by the Contract Documents.

6.5 Changes to the Guaranteed Maximum Price.

a. If the GMP has been established and when a specific bidder (i) is recommended to the City by the Construction Manager, (ii) is qualified to perform that portion of the Work, and (iii) has submitted a bid that conforms with the requirements of the Contract Documents without reservations or exceptions, but the City requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the construction schedule and the GMP by the difference between the bid of the person or entity recommended to the City by the Construction Manager and the amount and time requirement of the person or entity designated by the City.

b. Any changes to the scope of work that occur after the approval of the GMP Proposal will be addressed via the Change Order process.

6.6 Progress Payments. Partial payments calculated from completed Work in place and acceptable to the City at the unit bid prices or agreed-upon schedule of values will be made on or about the fifteenth (15^{th}) of each month on pay estimates based on the previous month's progress. The Construction Manager shall, after the first of each month, submit an invoice for materials used and Work performed for the previous month. A form of pay estimate, stating that the bill is fair and equitable and in exact accord with contract prices, will be utilized for pay purposes. Once the Construction Phase of the Work commences, ten percent (10%) of the amount due and payable to the Construction Manager will be retained from each month's partial payment. Final payment will be accomplished as prescribed in the Contract Documents and will be based on complete Work in place. The Construction Manager shall (i) provide satisfactory evidence that it has acquired title to the materials, that materials have been paid for, and that the material will be used to perform Work for the Assigned Project, and (ii) provide a Consent of Surety for the progress payments.

6.7 Florida Prompt Payment Act. All payments to be made hereunder shall be due and payable as provided by the Florida Prompt Payment Act, Section 218.70 et. seq., Florida Statutes.

7.0 GENERAL TERMS AND CONDITIONS

7.1 Detail Drawings and Instructions. The City's Project Manager will furnish, with reasonable promptness, additional instructions by means of drawings or otherwise, necessary for the proper execution of the Work. All such drawings and instructions will be consistent with the Contract Documents, true developments thereof, and reasonably inferable therefrom.

7.2 Copies of Drawings Furnished. Unless otherwise provided in the Contract Documents, the City will furnish to Construction Manager, free of charge, all copies of drawings and specifications reasonably necessary for the execution of the Work.

7.3 Order of Completion. Prior to the start of the Work, Construction Manager shall submit schedules that show the order in which the Construction Manager proposes to carry on the Work with dates at which the Construction Manager will start the several parts of the Work and estimated dates of completion of the several parts. The City's Project Manager may order the schedule to be supplemented or amended as necessary to afford proper continuity of the Work.

7.4 Drawings and Specifications on the Work. The Construction Manager shall keep one copy of all drawings and specifications of the Work in good condition available to the City and its representatives.

7.5 Ownership of Drawings. All drawings, specifications, and copies thereof furnished by the City are its property. They are not to be used on other work and, with the exception of the signed contract set, are to be returned to the City on request, at the completion of the Work.

7.6 Construction Manager's Understanding. It is understood and agreed that at such time as Construction Manager is authorized to proceed with an Assigned Project by the City, the Construction Manager shall carefully examine the Contract Documents and Project Site, satisfy itself as to the nature and location of the Work, the conformation of the ground, the character, quality, and quantity of the materials to be encountered, the character of the equipment and facilities needed preliminary to and during the prosecution of the Work, the general and local conditions, and all other matters which can in any way affect the Work under the Contract Documents. No verbal agreement or conversation with any officer, agent, or employee of the City, either before or after the execution of this Agreement or the assignment of any Project, shall affect or modify any of the terms or obligations contained in the Contract Documents.

7.7 Materials; Appliances; Employees. Unless otherwise stipulated, the Construction Manager shall provide and pay for all materials, fuel, labor, water, tools, sanitary facilities, power, transportation, and other facilities necessary for the execution and completion of the Work. Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of good quality. The Construction Manager shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

The City of Cocoa proudly supports and encourages buying USA domestic materials. Products incorporated into the Work shall be produced or manufactured in the United States of America as defined by the American Recovery and Reinvestment Act of 2009 (ARRA). This Project is not funded by the ARRA.

The City will not pay for material stored in place.

The Construction Manager shall at all times enforce strict discipline and good order among its employees and shall not employ on the Work any unfit person or anyone not skilled in the work assigned to him.

7.8 Royalties and Patents. The Construction Manager shall pay all royalties and license fees. The Construction Manager shall defend all suits or claims for infringement of any patent rights and shall save the City harmless from loss on account thereof except that the City shall be responsible for all such loss when a particular process or the product of a particular manufacturer or manufacturers is specified, unless the City has notified the Construction Manager prior to the signing of this Agreement or included in the specifications a proviso that there may be a patented process or product included in the Assigned Project.

7.9 Surveys, Permits, and Regulations. The Construction Manager will furnish all surveys unless otherwise specified. Permits and licenses necessary for the prosecution of the Work shall be secured and paid for by the Construction Manager. The Construction Manager shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the Work as drawn and specified. If the Construction Manager observes that the drawings and specifications are at variance therewith, it shall promptly notify the City in writing and any necessary changes shall be adjusted as provided in the contract for changes in the Work. If the Construction Manager performs any work knowing it to be contrary to such laws, ordinances, rules, and regulations and without such notice to the City, the Construction Manager shall bear all costs arising therefrom.

The Construction Manager shall continuously maintain adequate protection for all of its Work from damage and shall protect the City's property from injury or loss. The Construction Manager shall make good any such damage, injury, or loss. The Construction Manager shall adequately protect adjacent property as provided by law and the Contract Documents and shall provide and maintain all guard fences, lights, and other facilities for protection required by public authority or local conditions.

7.10 Inspection of Work. The City and its representatives shall at all times have access to the Work. The Work will be conducted under the general direction of the City and is subject to inspection by its appointed inspectors to ensure compliance with the terms of the Contract Documents. 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 Construction Manager 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 Construction Manager 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.

Re-examination of requested work may be ordered by the City. If such work is found in accordance with the Contract Documents, the City will pay the cost of re-examination and replacement provided the Construction Manager makes a claim therefor. If such work is found not in accordance with the Contract Documents, the Construction Manager shall pay such cost,

including compensation for professional services, and an appropriate deductive Change Order shall be issued.

7.11 Superintendent Supervision. The Construction Manager shall keep on the Project Site during its progress a competent superintendent satisfactory to the City. The superintendent shall not be changed except with the written consent of the City, unless the superintendent proves to be unsatisfactory to the Construction Manager and ceases to be in its employ. The superintendent shall represent the Construction Manager and all directions given to him shall be binding. Important directions will be confirmed in writing to the Construction Manager. Other directions will be so confirmed on written request in each case.

If the Construction Manager, in the course of the Work, finds any discrepancy between the drawings and the physical conditions of the locality, or any errors or omission in the drawings or in layout as given by points and instruction, it shall be the Construction Manager's duty to immediately inform the City, in writing, and the City will promptly verify the same. Any work done after such discovery, until authorized, will be done at the Construction Manager's risk.

Neither party shall employ or hire any employees of the other party without the other party's consent.

7.12 Changes in the Work. The City, without invalidating the contract, 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:

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

If none of the above methods is agreed upon, the Construction Manager, provided it receives an order as above, shall proceed with the work. In such case and also under case (C), the Construction Manager shall keep and present in such form as the City's Project Manager may direct, a correct account of the net cost of labor and materials, together with vouchers. In any case, the City's Project Manager will certify to the amount, including reasonable allowances for overhead and profit, due to the Construction Manager. Pending final determination of value, payments on account of changes will be made on the City's Project Manager's estimate.

7.13 Claims for Extra Cost. If the Construction Manager 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 in Section 7.12 (Changes in the Work). Claims will not be processed unless filed in writing before any work has commenced.

7.14 Deductions for Uncorrected Work. If the City's Project Manager deems it inexpedient to correct work injured or done not in accordance with the Contract Documents, an equitable deduction from the contract price will be made therefor by Change Order.

7.15 Delays and Extensions of Time. If the Construction Manager is delayed at any time in the progress of the Work by an act of neglect of the City or of its employees, or by any other contractor employed by the City, or by changes ordered in the Work or by strikes, lockouts, fire, unusual delay in transportation, unavoidable casualties or any causes beyond the Construction Manager's control, or by delay authorized by the City's Project Manager pending arbitration, or by any cause which the City's Project Manager may decide to justify the delay, then the time of completion will be extended for such reasonable time as the City's Project Manager may decide.

No such extension will be made for delay occurring more than seven (7) days before the claim is made in writing to the City's Project Manager. In the case of a continuing cause or delay, only one claim is necessary.

If no schedule or agreement stating the dates upon which drawings shall be furnished is made, then no claim for delay will be allowed on account of failure to furnish drawings until two (2) weeks after demand for such drawings and not then unless such claim be reasonable.

Notwithstanding the above, an extension of contract time, so granted, shall be the Construction Manager's sole and exclusive remedy for delay, disruption, interference, inefficiency, acceleration, hindrance, and costs thereto.

7.16 Correction of Work before Final Payments. The Construction Manager shall promptly correct all work condemned by the City's Project Manager as failing to conform to the Contract Documents, shall promptly replace and re-execute its own Work in accordance with the Contract Documents and without expense to the City, and shall bear the expense of making good all Work.

If the Construction Manager does not correct such condemned Work and material within ten (10) working days' time as fixed by written notice (punch list), the City may correct it at the expense of the Construction Manager. If the Construction Manager does not pay the expense of such correction within ten (10) days thereafter, the City may, upon ten (10) days written notice, deduct all the cost and expenses that should have been borne by the Construction Manager.

7.17 Suspension of Work. The City may at any time suspend the Work or any part thereof, by giving five (5) days' notice to the Construction Manager in writing. The Work shall be resumed by the Construction Manager within ten (10) days after the date fixed in a written

notice to resume the Work from the City to the Construction Manager. The City will reimburse the Construction Manager for expenses incurred in connection with the Work under the Contract Documents as a result of such suspension unless the suspension was ordered by the City's Project Manager to enforce the terms of the Contract Documents or for any violation of the Contract Documents.

7.18 City's Right to Reassign Work. If the Construction Manager should neglect to prosecute the Work properly or fail to perform any provision of the Contract Documents, the City, after three (3) days written notice to the Construction Manager, may, without prejudice to any other remedy it may have, make good such deficiencies at the Construction Manager's expense.

7.19 Removal of Equipment. In the case of annulment of this Agreement as to any Assigned Project before completion, from any cause whatever, the Construction Manager, if notified to do so by the City, shall promptly remove any part or all of its equipment and supplies from the property of the City, failing which the City will have the right to remove such equipment and supplies at the expense of the Construction Manager, and the City shall have the right to store such equipment and supplies at the Construction Manager's expense. The City shall incur no liability to the Construction Manager for loss or damage to the supplies and equipment so removed and/or stored.

7.20 Use of Completed Portions. The City will have the right to take possession of and use any substantially completed portion of the Work, notwithstanding the fact that the time for completing the entire Work or such portions may not have expired, but such taking possession and use will not be deemed an acceptance of any Work not completed in accordance with the Contract Documents. If such prior use increases the cost of or delays the Work, the Construction Manager will be entitled to such extra compensation, or extension of time, or both, as the City's Project Manager may determine.

7.21 Payments Withheld. The City may withhold or, on account of subsequently discovered evidence, nullify the whole or a part of any payment request to such an extent as may be necessary to protect itself from loss on account of:

A. Defective work not remedied.
B. Claims filed or reasonable evidence indicating probable filing of claims.
C. Failure of the Construction Manager to make payment properly to Subcontractors or for materials or labor.
D. The City's Project Manager's opinion that the contract cannot be completed for the balance then unpaid.
E. Failure to maintain adequate progress.

When the above grounds are removed, payment will be made for amounts withheld because of them.

7.22 Safety and Protection. The Construction Manager shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the

Work. The Construction Manager shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

A. All employees on the Project Site and other persons who may be affected thereby.
B. All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the Project Site.
C. Other property at the Project Site or adjacent thereto.

Construction Manager 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, Construction Manager 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 the City's Safety and Loss Control Program.

7.23 Damages. Any claim for damage arising under the Contract Documents shall be made in writing to the party liable within ten (10) days after the first observance of such damage and not later than the time of final payment, except as expressly stipulated otherwise in the case of faulty work or materials.

7.24 Liens. Anything contained in any of the Contract Documents notwithstanding, all progress payments and the final payment shall be paid by the City to the Construction Manager in compliance with the provisions of the Laws of Florida. The City shall withhold ten percent (10%) of the amount of each progress payment. The last payment due under the Contract Documents shall be paid by the City to the Construction Manager only after the Construction Manager has furnished the City with an affidavit stating that all persons, firms, or corporations who have furnished labor or materials, employed directly or indirectly in the Work, have been paid in full, and in addition, before the Construction Manager shall have the right to receive the final payment due under the contract, the Construction Manager shall furnish the City with releases of lien executed by all persons, firms, or corporations who have performed or furnished labor, services, or materials, directly or indirectly, used in the Work. The City shall have the right to demand and receive from the Construction Manger before it shall receive any progress payment, receipt bills showing payment in full for all labor, services, and materials incorporated into the Work, for the period of time for which the progress payment is due. Likewise, as a condition to receiving any progress payment, the City may require the Construction Manager to furnish any partial releases of lien executed by all persons, firms, and corporations who have furnished labor, services, or materials incorporated into the Work during the period of time for which the progress payment is due, releasing such lien rights as these persons, firms, or corporations may have for that period. If any of the laborers, subcontractors, or material men shall serve upon the City a "Notice to Owner" or shall otherwise put the City on notice that they are owed any unpaid money by the Construction Manager, the City shall have the right to pay these persons directly in the manner provided by Florida's Mechanic's Lien Law, and the City shall receive a credit therefor upon the contract price accordingly. The Construction Manager does hereby release, remise, and quit claim any and all

rights it would have otherwise enjoyed to perfect a mechanic's lien or any other type of statutory common law or equitable lien against the Work.

7.25 Subcontracts. The Construction Manager shall, as soon as practicable after signing the GMP Amendment, notify the City in writing of the names of subcontractors proposed for the Work and the description of work to be performed by each subcontractor. The Construction Manager shall not employ subcontractors unless they are approved in writing by the City.

The Construction Manager agrees that it is as fully responsible to the City for the acts and omissions of its Subcontractors and of persons either directly or indirectly employed by them as it is for the acts and omissions of persons directly employed by the Construction Manager. Nothing contained in the Contract Documents shall create any contractual relation between any Subcontractor and the City.

7.26 Points and Instructions. The Construction Manager shall provide reasonable and necessary opportunities and facilities for setting points and making measurements. It shall not proceed until he has made timely demand upon the City's Project Manager for, and has received from him such points and instructions as may be necessary as the Work progresses. The Work shall be done in strict conformity with such points and instructions.

7.27 City's Project Manager's Status. The City's Project Manager will have general supervision and direction of the Work. He has authority to stop the Work whenever such stoppage may be necessary to ensure the proper execution of the contract. He will also have authority to reject all work and materials that do not conform to the Contract Documents, to direct the application of forces to any portion of the Work, as in his judgment is required, to order the force increased or diminished, and to decide questions that arise in the execution of the Work.

7.28 City's Project Manager's Decisions. The City's Project Manager will, within reasonable time after their presentation to him, make decisions in writing on all claims of the Construction Manager and on all other matters relating to the execution and progress of the Work or the interpretation of the Contract Documents. All such decisions of the City's Project Manager shall be final.

7.29 One Year Correction Period. If within one (1) year after the date of substantial completion of an Assigned Project or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, the Construction Manager shall promptly, without cost to the City and in accordance with the City's written instruction, either correct such defective work, or, if it has been rejected by the City, remove it from the Project Site and replace it with non-defective work. If the Construction Manager does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, the City may have the defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, shall be paid by the Construction Manager.

8.0 LIQUIDATED DAMAGES FOR DELAY

8.1 Inasmuch as failure to substantially complete the Work according to the Assigned Project schedule will result in injury to the City, and as damages arising from such failure cannot be calculated with any degree of certainty, it is agreed that if the Work is not substantially completed within the time provided by the Assigned Project schedule, or within such further time, if any, as shall be allowed for time extensions in accordance with the provisions of the Contract Documents, the Construction Manager shall pay to the City as liquidated damages for such delay, and not as a penalty, the amount set forth in the GMP Amendment for each calendar day elapsing between the date fixed for substantial completion and the date such substantial completion is fully accomplished. The parties agree that said liquidated damages are reasonable given existing circumstances, including, without limitation, the range of harm that is foreseeable and the anticipation that proof of damages would be costly and impractical.

8.2 The liquidated damages shall be payable in addition to any excess expenses or costs payable by the Construction Manager to the City under the Contract Documents, and shall not preclude the recovery of damages by the City under other provisions of the Contract Documents, except claims related to Construction Manager's delays in substantial completion. The City's right to receive liquidated damages shall in no manner affect the City's right to terminate the Contract Documents, as provided in this Agreement or elsewhere in the Contract Documents. The City's exercise of the right to terminate shall not release the Construction Manager from the obligation to pay said liquidated damages.

8.3 When the City reasonably believes (i) that substantial completion will be inexcusably delayed; or (ii) that the Construction Manager will fail to achieve final completion by the date of final completion, the City shall be entitled, but not required, to withhold from any amounts otherwise due the Construction Manager the daily amount specified for liquidated damages for each calendar day of the unexcused delay. If and when the Construction Manager overcomes the delay in timely achieving substantial completion or final completion, or any part thereof, for which the City has withheld payment, the City shall promptly release to the Construction Manager those funds withheld, but no longer applicable, as liquidated damages.

9.0 AUDIT RIGHTS

9.1 The City may, upon reasonable notice, audit the records of the Construction Manager and its Subcontractors and suppliers during regular business hours, during the term of this Agreement and for a period of three (3) years after final payment is made by the City to Construction Manager for an Assigned Project or longer, if required by law. Such audits may be performed by a representative of the City or an outside representative engaged by City.

9.2 For purposes hereof, Construction Manager's "records" means any and all information, materials, and data of every kind and character, whether hard copy or in electronic form, which may, in City's judgment, have any bearing on or pertain to the Contract Documents, including, without limitation, books, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, written policies and procedures, time sheets, payroll registers, payroll records, cancelled payroll checks, subcontract

files (e.g., including proposals of successful and unsuccessful bidders, bid recap), original estimates, estimating work sheets, correspondence, Change Order files (including documentation covering negotiated settlements), back-charge logs and supporting documentation, invoices and related payment documentation, general ledgers, records detailing cash and trade discounts earned, insurance rebates and dividends, superintendent reports, drawings, receipts, vouchers, and memoranda.

9.3 City's authorized representative shall have reasonable access to the Construction Manager's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the Contract Documents, shall be provided adequate and appropriate work space at Construction Manager's facilities, may count employees at the Site, may be present for the distribution of payroll and shall have such other rights of access as may be reasonably necessary to carry out an audit.

9.4 If an audit discloses overpricing or overcharges, Construction Manager shall refund the overpayment. If an audit discloses overpricing or overcharges of one percent (1%) of the total amount paid hereunder, but in any event more than $200,000, whichever is less, in addition to making adjustments for the overcharges, the reasonable actual cost of the City's audit shall be reimbursed to the City by the Construction Manager. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the Construction Manager's invoices and/or records shall be made within ninety (90) calendar days from presentation of City's findings to Construction Manager.

9.5 Construction Manager shall ensure notice of City's audit rights is provided to its Subcontractors, suppliers, and any other vendor providing services or materials for each Assigned Project and shall ensure that each agreement it enters into pursuant hereto includes the provisions of this Article 9.0.

10.0 INSURANCE

10.1 Liability Amounts. During the term of this Agreement, Construction Manager shall be responsible for providing the types of insurance and limits of liability as set forth below.

a. Professional Liability. Proof of professional liability insurance shall be provided to the City for the minimum amount of $1,000,000 per occurrence and in the aggregate with a deductible not greater than $50,000.

b. General Liability. The Construction Manager shall maintain comprehensive general liability insurance in the minimum amount of $1,000,000 as the combined single limit for each occurrence, with a deductible no greater than $5,000, unless a higher deductible is pre-approved by the City Manager, to protect Construction Manager from claims of property damages and personal injury which may arise from any Services performed under the Contract Documents, whether such Services are performed by Construction Manager or by anyone directly employed by or contracting with Construction Manager.

c. Automobile Liability. The Construction Manager shall maintain comprehensive automobile liability insurance in the minimum amount of $1,000,000 per occurrence combined single limit for bodily injury, including wrongful death, and 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 Construction Manager or by anyone directly or indirectly employed by Construction Manager.

d. Workers' Compensation. The Construction Manager shall maintain, during the life of this Agreement, adequate Workers' Compensation Insurance and Employers' Liability Insurance in at least such amounts as are required by law for all of its employees performing Work for the City pursuant to this Agreement.

e. Environmental Impairment Insurance Minimum Requirements. If the Construction Manager will be locating portable fuel or lubricant storage tanks at the job site or will be storing or using hazardous chemicals on the job site, it shall maintain Environmental Impairment Insurance or "Pollution Insurance" with a limit of not less than $1,000,000 per occurrence and submit proof of same in the form of a certificate of insurance or an endorsement to its General Liability policy showing a pollution exclusion exception for each specific work product or storage container before work is begun.

f. Builder's Risk Insurance. If City and Construction Manager agree to proceed to construction on an Assigned Project under a GMP Amendment, then the Construction Manager shall, before any construction, acquire and maintain throughout the course of construction, Builder's Risk Insurance in a dollar amount equal to the full insurable value of the Work under the contract, which shall include "All Risk" coverage. The City shall be named as a "Loss Payee". The Construction Manager shall be responsible for equipment, materials, and supplies, to include the City's Direct Purchase equipment, until completion of the Assigned Project and acceptance by the City.

10.2 Special Requirements. Current, valid insurance policies meeting the requirements herein identified shall be maintained during the term of this Agreement. Renewal certificates shall be sent to the City thirty (30) days prior to any expiration date. There shall also be a thirty (30) day advance written notification to the City in the event of cancellation or modification of any stipulated insurance coverage. The City shall be an additional named insured on stipulated insurance policies included in Sections 10.1.b, 10.1.c, and 10.1.e herein, as its interest may appear, from time to time.

10.3 Cancellation, Change, or Non-Renewal. The insurance required by this Agreement shall include the liability and coverage provided herein, or as required by law, whichever requirements afford greater coverage. All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least thirty (30) days' prior written notice has been given to the City and Construction Manager by certified mail, return receipt requested. All such insurance shall remain in effect until final payment. In the event that Construction Manager shall fail to comply with the foregoing requirement, the City is authorized, but in no event shall be obligated, to purchase such insurance, and the City may bill Construction

Manager. The Construction Manager shall immediately forward funds to the City in full payment for said insurance. It is expressly agreed that neither the provision of the insurance referred to in this Agreement nor the City's acceptance of the terms, conditions, or amounts of any insurance policy shall be deemed a warranty or representation as to adequacy of such coverage. All insurance coverage shall be with insurer(s) rated as A+ by Best's Rating Guide (or equivalent rating and rating service as reasonably determined by the City Manager) and licensed by the State of Florida to engage in the business of writing of insurance or provided through the London Market for Professional Liability Insurance. The Construction Manager shall cause its insurance carriers, prior to the effective date of this agreement to furnish insurance certificates specifying the types and amounts of coverage in effect pursuant hereto, the expiration dates of such policies, and a statement that no insurance under such policies will be canceled without thirty (30) days' prior written notice to the City in compliance with other provisions of this Agreement. Further copies of all relevant policies will be provided to the City within thirty (30) days of the effective date of this agreement. If the City has any objection to the coverage afforded by or other provision of the insurance required to be purchased and maintained by Construction Manager in accordance with this Article 10.0 on the basis of its not complying with the Agreement, the City shall notify Construction Manager in writing thereof within thirty (30) days of the date of delivery of such certificates to the City. For all Work performed pursuant to this Agreement, Construction Manager shall continuously maintain such insurance in the amounts, type, and quality as required by the Agreement.

10.4 Independent Associates and Consultants. All independent associates and consultants employed by Construction Manager to perform any Services hereunder shall fully comply with the insurance provisions contained in this Article 10.0.

11.0 REPRESENTATIONS

11.1 The Construction Manager represents that the Services provided hereunder shall conform to all requirements of the Contract Documents; shall be consistent with recognized and sound CMAR practices and procedures; and shall conform to the customary standards of care, skill, and diligence appropriate to the nature of the Services rendered. The Construction Manager shall perform as expeditiously as is consistent with professional skill and care and the orderly progress of the Services to be performed hereunder. The Construction Manager's Services shall be consistent with the time periods established under Contract Documents. The Construction Manager shall provide the City with a written schedule for Services performed for each Assigned Project and such schedule shall provide for ample time for the City to review, for the performance of consultants (if any), and for the approval of submissions by authorities having jurisdiction over the Services. The Construction Manager's designated representative shall have the authority to act on Construction Manager's behalf with respect to the Services. In addition, Construction Manager's representative shall render decisions in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Services. Except with the City's knowledge and consent, Construction Manager shall not engage in any activity, or accept any employment, interest, or contribution that would reasonably appear to compromise Construction Manager's professional judgment with respect to the Services. The Construction Manager shall review laws, codes, and regulations applicable to Construction Manager's Services. The Construction

Manager's Services and construction shall comply with all applicable requirements imposed by all public authorities. The Construction Manager represents and warrants that it is familiar with, and accepts that it will perform the Services hereunder in a manner that complies with, all applicable requirements of law, codes, and regulations. The Construction Manager shall be responsible for the professional quality, technical accuracy, and the coordination of all plans, studies, reports, and other services furnished to the City under this Agreement. Unless this Agreement is terminated by the City, or terminated by Construction Manager for nonpayment of any proper invoices, or the City exercises its rights to perform the Services pursuant to Section 4.4 herein, Construction Manager shall be responsible for the satisfactory and complete execution of the Services described in the Contract Documents. The Construction Manager represents that it will carefully examine the scope of services required by the City in the Contract Documents, that it will investigate the essential requirements of the Services required by the Contract Documents, and that it will have sufficient personnel, equipment, and material at its disposal to complete the services set forth in the Contract Documents in a good professional and workmanlike manner in conformance with the requirements of the Contract Documents.

11.2 The Construction Manager represents that all principals, employees, and other personnel furnishing such Services shall be qualified and competent to perform the Services assigned to them and that such guidance given by and the recommendations and performance of such personnel shall reflect their best professional knowledge and judgment.

12.0 GUARANTEE AGAINST INFRINGEMENT

12.1 The Construction Manager guarantees that all Services performed under the Contract Documents for each Assigned Project shall be free from claims of patent, copyright, and trademark infringement. Notwithstanding any other provision of the Contract Documents, Construction Manager shall indemnify, hold harmless, and defend the City, its officers, directors, employees, agents, assigns, and servants from and against any and all liability, including expenses, legal or otherwise, for actual or alleged infringement of any patent, copyright, or trademark resulting from the use of any goods, services, or other item provided under this Agreement. Notwithstanding the foregoing, Construction Manager may elect to provide non-infringing services.

13.0 DOCUMENTS

13.1 Public Records. Pursuant to Section 119.0701, Florida Statutes, and other applicable public records laws, Construction Manager agrees that any records, documents, transactions, writings, papers, letters, computerized information and programs, maps, books, audio or video tapes, films, photographs, data processing software, writings or other material(s), regardless of the physical form, characteristics, or means of transmission, of Construction Manager related, directly or indirectly, to the services provided to the City under this Agreement and made or received pursuant to law or ordinance or in connection with the transaction of official business by the City, may be deemed to be a public record, whether in the possession or control of the City or Construction Manager. Said records, documents, transactions, writings, papers, letters, computerized information and programs, maps, books, audio or video tapes, films, photographs, data processing software, writings or other material(s), regardless of the physical form,

characteristics, or means of transmission of Construction Manager are subject to the provisions of Chapter 119, Florida Statutes, and may not be destroyed without the specific written approval of the City's designated custodian of public records.

IF THE CONSTRUCTION MANAGER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSTRUCTION MANAGER'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, City Clerk's Office, 65 Stone Street, Cocoa, FL 32922.

Construction Manager is required to and agrees to comply with public records laws. Construction Manager shall keep and maintain all public records required by the City to perform the services as agreed to herein. Construction Manager shall provide the City, upon request from the City Clerk, copies 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 by law. Construction Manager shall 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. Upon completion of the Agreement, Construction Manager shall transfer to the City, at no cost, all public records in possession of Construction Manager, provided the transfer is requested in writing by the City Clerk. Upon such transfer, Construction Manager shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. However, if the City Clerk does not request that the public records be transferred, Construction Manager shall continue to keep and maintain the public records upon completion of the Agreement and shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City Clerk, in a format that is compatible with the information technology systems of the City. Should the City not possess public records relating to this Agreement which are requested to be inspected or copied by the City or any other person, the City shall immediately notify Construction Manager of the request and Construction Manager shall then provide such records to the City or allow the records to be inspected or copied within a reasonable time. If Construction Manager does not comply with a public records request, the City may enforce this Section to the extent permitted by law. Construction Manager acknowledges that if Construction Manager does not provide the public records to the City within a reasonable time, Construction Manager may be subject to penalties under Section 119.10, Florida Statutes. The Construction Manager acknowledges that if a civil action is filed against Construction Manager to compel production of public records relating to this Agreement, the court may assess and award against Construction Manager the reasonable costs of enforcement, including reasonable attorney fees. All public records in connection with this Agreement shall, at any and all reasonable times during the normal business hours of Construction Manager, be open and freely exhibited to the City for the purpose of examination, audit, or otherwise. Failure by Construction Manager to grant such public access and comply with public records laws and/or requests shall be grounds for immediate unilateral cancellation of this Agreement by the City upon delivery of a written notice of cancellation. If Construction Manager fails to comply with this Section, and the City must enforce this Section, or the City suffers a third party award of attorney's fees and/or damages for violating Chapter 119, Florida Statutes, due to Construction Manager's failure to comply with this Section, the City shall collect from

Construction Manager prevailing party attorney's fees and costs, and any damages incurred by the City, for enforcing this Section against Construction Manager. And, if applicable, the City shall also be entitled to reimbursement of all attorneys' fees and damages which the City had to pay a third party because of Construction Manager's failure to comply with this Section. The terms and conditions set forth in this Section shall survive the termination of this Agreement.

a. Reuse of Documents. All documents, including but not limited to, drawings, specifications, and data or programs stored electronically or otherwise, prepared by Construction Manager and its independent contractors and associates pursuant to this Agreement or related exclusively to the Services described herein shall be owned by the City and may be reused by the City for any reason or purpose at any time. However, the City agrees that the aforesaid documents are not intended or represented to be suitable for reuse by the City or others on any undertaking other than the Work outlined in this Agreement. Any reuse for an undertaking other than for the Work without verification or adaptation by Construction Manager, or its independent contractors and associates if necessary, to specific purposes intended will be at the City's sole risk and without liability or legal exposure to Construction Manager.

b. Ownership of Documents. The City and Construction Manager agree that upon payment of fees due to Construction Manager by the City for a particular design, report, inventory list, compilation, drawing, specification, model, recommendation, schedule, or otherwise, said design, report, inventory list, compilation, drawing, specification, technical data, recommendation, model, schedule, and other instrument produced by Construction Manager in the performance of this Agreement, or any Work hereunder, shall be the sole property of the City, and the City is vested with all rights therein. The Construction Manager waives all rights of copyright in said design, report, inventory list, compilation, drawing, specification, technical data, recommendation, model, schedule, and other instrument produced by Construction Manager in the performance of this Agreement, and hereby assigns and conveys the same to the City whether in the possession or control of Construction Manager or not.

c. Preexisting Ownership Rights to Documents. Notwithstanding any provisions to the contrary contained in this Agreement, Construction Manager shall retain sole ownership to its preexisting information not produced and paid for by the City under this Agreement including, but not limited to, computer programs, software, standard details, figures, templates and specifications.

14.0 ASSIGNMENT

14.1 The Construction Manager shall not assign or subcontract this Agreement, any Contract Documents hereunder, or any rights or any monies due or to become due hereunder without the prior, written consent of the City. Any Subcontractors employed by Construction Manager for any Work required under this Agreement shall require prior written approval from the City, unless previously approved in the Contract Documents. Any attempt to assign or subcontract the responsibilities and payments under this Agreement without the express prior written consent of the City shall be grounds for termination of the Agreement.

14.2 If upon receiving written approval from the City, any part of this Agreement is subcontracted by Construction Manager, Construction Manager shall be fully responsible to the City for all acts and/or omissions performed by the subcontractor as if no subcontract had been made.

14.3 If the City determines that any Subcontractor is not performing in accordance with this Agreement, the City shall so notify Construction Manager who shall take immediate steps to remedy the situation.

14.4 The Construction Manager, prior to the commencement of any Work by any Subcontractor, Construction Manager shall require the Subcontractor to provide the City and its affiliates with insurance coverage as set forth by the City.

15.0 INDEPENDENT CONTRACTOR

15.1 At all times during the term of this Agreement, the Construction Manager and any approved Subcontractors shall be considered an independent contractor(s) and not an employee(s) of the City.

16.0 DEFAULT BY CONSTRUCTION MANAGER; CITY'S REMEDIES

16.1 In addition to the City's right to terminate this Agreement for convenience under Article 17.0 of this Agreement, the City also reserves the right to revoke and terminate this Agreement for a default and to rescind all rights and privileges associated with this Agreement, without penalty, based on a default including, but not limited to, any of the following circumstances, each of which shall represent a default and breach of this Agreement:

a. The Construction Manager defaults in the performance of any material covenant or condition of this Agreement and does not cure such other default within thirty (30) calendar days after written notice from the City 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 thirty (30) calendar days, in which case Construction Manager shall have such time as is reasonably necessary to remedy the default, provided Construction Manager promptly takes and diligently pursues such actions as are necessary therefore; or

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

c. A writ of garnishment shall be served on the City, seeking to reach funds due or to become due to Construction Manager;

d. The Government of the United States or any state or county shall garnish, distrain, attach, or seek to reach funds due or to become due to the Construction Manager;

e. The Construction Manager persistently or repeatedly refuses or fails, except in cases of which extension of time is provided, to supply enough properly skilled workmen or proper materials;

f. The Construction Manager fails to make prompt payment to Subcontractors or for material or labor;

g. The Construction Manager persistently disregards laws, ordinances, or the instructions of the City's Project Manager;

h. The Construction Manager has acted grossly negligent, as defined by general and applicable law, in performing the Services hereunder; or

i. The Construction Manager has committed any act of fraud upon the City; or

j. The Construction Manager has made a material misrepresentation of fact to the City while performing its obligations under this Agreement; or

k. The Construction Manager has assigned this Agreement or any Contract Documents without the City's prior written consent.

16.2 Notwithstanding the aforementioned, in the event of a default by Construction Manager, the City shall have the right to exercise any other remedy the City may have by operation of law, without limitation, and without any further demand or notice.

16.3 In the event of such termination upon default and breach of this Agreement, the City may take possession of the Project Site and of all materials, tools, and appliances thereon and finish the work by whatever method the City may deem expedient. Any completed services performed by Construction Manager under this Agreement shall, at the option of the City, become the City's property and Construction Manager shall be entitled to receive equitable compensation for any Work completed to the satisfaction of the City. The Construction Manager, however, shall not be relieved of liability to the City for damages sustained by the City by reason of any breach of the Agreement, and the City may withhold any payments to Construction Manager for the purpose of setoff until such time as the amount of damages due to the City from Construction Manager can be determined.

17.0 TERMINATION

17.1 Notwithstanding any other provision of this Agreement, the City may, upon written notice to Construction Manager, terminate this Agreement, without penalty, if: (a) Construction Manager is in default pursuant to Article 16.0 Default; (b) Construction Manager makes a general assignment for the benefit of its creditors; (c) Construction Manager fails to comply with any condition or provision of this Agreement; or (d) Construction Manager 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 the City may have under this Agreement.

17.2 If the Work should be stopped under an order of any court, or other public authority for a period of three (3) months, through no act or fault of the Construction Manager or anyone employed by it, or if the City's Project Manager should fail to issue any estimate for payment within seven (7) days after it is due, or if the City fails to pay the Construction Manager within twenty (20) days of its maturity and presentation, any sum certified by the Project Manager or awarded by arbitrators, then the Construction Manager may, upon seven (7) days written notice to the City, stop work or terminate this contract and recover from the City payment for all Work executed and any loss sustained upon any plant or materials and reasonable profit and damages.

17.3 In addition, either party may terminate for convenience without penalty at any time upon thirty (30) days advance written notice.

17.4 In the event of termination, City 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.

18.0 FORCE MAJEURE

18.1 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 (with the exception of Construction Manager's labor force); extraordinary breakdown of or damage to the City's affiliates' generating plants, their equipment, or facilities; court injunction or order; federal and/or state law or regulation; order by any regulatory agency; or cause or causes beyond the reasonable control of the party affected; 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. If any circumstance of Force Majeure remains in effect for sixty (60) days, either party may terminate this Agreement.

19.0 GOVERNING LAW & VENUE

19.1 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.

20.0 HEADINGS

20.1 Article, section, and paragraph headings are for the convenience of the parties only and are not to be construed as part of this Agreement.

21.0 SEVERABILITY

21.1 In the event any portion or part of this Agreement is deemed invalid, against public policy, void, or otherwise unenforceable by a court of law, the parties shall negotiate an equitable adjustment in the affected provision of this Agreement. The validity and enforceability of the remaining parts of this Agreement shall otherwise remain fully intact.

22.0 WAIVER AND ELECTION OF REMEDIES

22.1 Waiver by either party of any terms, conditions, or provisions of this Agreement shall not be considered a waiver of that term, condition, or provision in the future.

22.2 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.

23.0 THIRD PARTY RIGHTS

23.1 Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and Construction Manager.

24.0 PROHIBITION AGAINST CONTINGENT FEES

24.1 The Construction Manager warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Construction Manager, 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 Construction Manager, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the City shall have the right to terminate the Agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

25.0 ENTIRE AGREEMENT

25.1 The Contract Documents, including this Agreement and any schedules, attachments, appendices, and exhibits attached hereto, constitutes the entire agreement between the City and Construction Manager with respect to the Services specified and all previous representations relative thereto, either written or oral, are hereby annulled and superseded. Any Project-specific modifications to this Agreement will be set forth in the Contract Documents for the Assigned Project.

26.0 NO JOINT VENTURE

26.1 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.

27.0 ATTORNEY'S FEES

27.1 Should any litigation arise concerning this Agreement between the parties, the parties agree to bear their own costs and attorney's fees, whether at settlement, trial, or on appeal.

28.0 COUNTERPARTS

28.1 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.

29.0 DRAFTING

29.1 The City and Construction Manager 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.

30.0 NOTICE

30.1 Any notices required to be given by the terms of this Agreement shall be delivered by hand or mailed, postage prepaid to:

For Construction Manager:

Petticoat-Schmitt Civil Contractors, Inc.
Attention: LAUREN C. ATWELL, COO
6380 Philips Highway
Jacksonville, FL 32216
Phone: (904) 252-8583 (c) (904) 751-0888 (o)
Fax: (904) 751-0988
latwell@petticoatschmitt.com

For City:

City of Cocoa
Attention: City Manager
65 Stone Street
Cocoa, FL 32922
(321) 433-8688 Phone
(321) 433-8698 Fax

30.2 Either party may change the notice address by providing the other party written notice of the change pursuant to this Article 30.0.

30.3 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.

31.0 SOVEREIGN IMMUNITY

31.1 The City 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 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. Construction Manager agrees that City shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, City 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 Section shall survive termination of this Agreement.

32.0 CORPORATE REPRESENTATIONS BY CONSTRUCTION MANAGER

32.1 The Construction Manager hereby represents and warrants to the City the following:

a. The Construction Manager 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 the Contract Documents.

b. The undersigned representative of Construction Manager has the power, authority, and legal right to execute and deliver this Agreement on behalf of Construction Manager.

33.0 INDEMNIFICATION AND LIMITATION OF LIABILITY

33.1 The Construction Manager shall defend, indemnify, and hold harmless the City, its officers, employees, agents, and volunteers, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of Construction Manager and other persons employed or utilized by Construction Manager in the performance of this Agreement and all Contract Documents.

The Construction Manager specifically assumes potential liability for actions brought by Construction Manager's own employees against the City and, solely for the purpose of this indemnification and defense, Construction Manager 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 indemnity provisions set forth in this Section shall survive termination of this Agreement.

33.2 For other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Construction Manager expresses its willingness to enter into this Agreement with the knowledge that Construction Manager's recovery from the City to any action or claim arising from the Agreement is limited to a maximum amount of the sum of any Agreement

amount that is owed by the City for Services actually performed by Construction Manager to the City's complete satisfaction, and in no case shall exceed the amount provided in Section 31.1 herein. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended either to be a waiver of the limitation placed upon the City's liability as set forth in Section 768.28 Florida Statutes, or to extend the City's liability beyond the limits established in said Section 768.28 Florida Statutes; and no claim or award against the City shall include attorney's fees, investigative costs, expert fees, suit costs, or pre-judgment interest.

33.3 PURSUANT TO SECTION 558.0035, FLORIDA STATUTES, AN INDIVIDUAL EMPLOYEE OR AGENT OF THE CONSTRUCTION MANAGER MAY NOT BE HELD INDIVIDUALLY LIABLE FOR ECONOMIC DAMAGES RESULTING FROM NEGLIGENCE UNDER THIS AGREEMENT IF THE CONDITIONS OF SECTION 558.0035 ARE SATISFIED.

34.0 BONDS

34.1 To the extent deemed necessary and required by the City, Construction Manager shall supply a materials, performance, and payment bond(s) in an amount specified in the Contract Documents for any Assigned Project, in a form approved by the City Attorney and in accordance with Florida law.

34.2 The City will have the right, prior to commencement of any Assigned Project, to require the Construction Manager to furnish bond(s) covering its faithful performance of the Work and the payment of all obligations arising thereunder, in such forms as the City may prescribe and with such sureties as it may approve. Performance and payment bonds in compliance with Section 255.05 Florida Statutes will be required for the Assigned Projects. The premium for such bond shall be paid by the Construction Manager.

35.0 ADDITIONAL ASSURANCES

35.1 The Construction Manager for itself and its Subcontractors, if any, certifies that:

a. No principal (which includes officers, directors, or executives) 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 architecture, landscape architecture, engineering, or surveying activity by any Federal, State, or local governmental commission, department, corporation, subdivision, or agency;

b. No principal (which includes officers, directors, or executives) or 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 City; and;

c. No principal (which includes officers, directors, or executives) or individual holding a professional license and performing work under this Agreement, employee, or

agent has willfully offered an employee or officer of the City any pecuniary or other benefit with the intent to influence the employee or officer's official action or judgment.

d. The undersigned is authorized to execute this Agreement on behalf of Construction Manager and said signature shall bind Construction Manager to this Agreement. No further action is required by Construction Manager to enter into this Agreement other than Construction Manager's undersigned representative's execution of the Agreement.

IN WITNESS WHEREOF, the parties hereto caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

CITY:
CITY OF COCOA

By: _____

Print Name: John A. Titkanich, Jr. AICP, ICMA-CM

Title: City Manager

ATTEST:

By: _____
Carie Shealy, City Clerk

CONSTRUCTION MANAGER:
PETTICOAT-SCHMITT CIVIL CONTRACTORS, INC.

By: _____

Print Name: LAUREN C. ATWELL

Title: CHIEF OPERATING OFFICER

By: tonya baker

Print Name: Tonya Baker

MASTER SERVICES AGREEMENT
Construction Manager at Risk (CMAR) Services for
Specified Water and Wastewater System Projects

THIS AGREEMENT is made and entered into as of the Effective Date (as defined below) by and between the **CITY OF COCOA**, a Florida municipal corporation ("City"), located at 65 Stone Street, Cocoa, Florida 32922, and **WHARTON-SMITH, INC.**, a Florida corporation ("Construction Manager"), whose principal address is 750 Monroe Road, Sanford, Florida 32771.

WITNESSETH:

WHEREAS, the City desires to obtain construction manager at-risk (CMAR) services to include pre-construction and construction phase services for identified projects for the City's water and wastewater systems from time to time and on an as-needed, project-specific basis; and

WHEREAS, the City has followed the selection and negotiation process set forth in the Florida's Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes specifically for the projects that are identified in RFQ #Q-19-04-COC and set forth herein; and

WHEREAS, Construction Manager participated in the selection and negotiation process under RFQ #Q-19-04-COC and desires to provide CMAR services if the City assigns one or more of the identified projects to the Construction Manager after the effective date of this Agreement; and

WHEREAS, Construction Manager is willing to provide such CMAR services to the City under the terms and conditions stated herein; and

WHEREAS, the City is willing to place Construction Manager on its list of pre-approved CMAR services consultants for the aforementioned projects.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

1.0 DEFINITIONS. The following words and phrases used in this Agreement shall have the following meaning ascribed to them unless the context clearly indicates otherwise:

1.1 "Agreement" shall refer to this Master Services Agreement, as may be amended from time to time, which shall constitute authorization for Construction Manager to provide CMAR services approved on an individual basis by the City.

1.2 "Assigned Project" means each individual Project for which Construction Manager is assigned by the City to provide Services pursuant to the project bidding procedure set forth in Paragraph 4.1 of this Agreement.

1.3 "Change Order" shall mean a written order signed by the City authorizing an addition, deletion, or revision in the Work or adjustment in the contract price or time.

1.4 "Construction Manager" shall mean Wharton-Smith, Inc., a Florida corporation, and its principals, employees, and resident project representatives (and assistants).

1.5 "Contract Documents" consist of the following items, including all modifications thereof, incorporated into the documents before their execution: this Agreement; Notice to Firms; Instructions to Bidders; Special Provisions; GMP Amendment; Technical Specifications; Proposal; Performance/Payment Bond; Drawings; and Addenda pertaining to the contract.

1.6 "Contractor's Fee" is the Construction Manager's profit for the construction phase work for each Project, expressed as a percentage of the cost of construction.

1.7 "Design Engineer" means the engineering team retained by the City to create the design and specifications for the Project. The Design Engineer is the Engineer of Record for the Project.

1.8 "Effective Date" shall be the date on which 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 go into effect until said date.

1.9 "GMP Amendment" is a document that outlines the scope of the Work, the technical documents, assumptions, clarifications, technical exclusions, the project schedule, and the GMP Proposal for the Project. The executed GMP Amendment shall automatically become part of the Contract Documents and shall establish the GMP, key supervisory personnel for the Project, the contract duration for the Project, liquidated damages dollar amount per calendar day, and all required bond and insurance documents.

1.10 "GMP Proposal" is a price proposal that includes the Construction Manager's General Conditions Fee, cost of the construction Work, payment and performance bond costs, building permit allowance, insurance costs, project construction contingency, and Contractor's Fee. The GMP Proposal shall be based on the drawings and specifications and the Contract Documents.

1.11 "Guaranteed Maximum Price" or **"GMP"** is the construction price agreed to between the Construction Manager and the City (as set forth in the GMP Amendment) and is the maximum total Project price that the Construction Manager guarantees not to exceed for the Construction Phase of the Assigned Project. It shall not include the services rendered during the Pre-Construction Phase.

1.12 "General Conditions Fee" is the overhead for services for the Construction Phase, exclusive of physical construction, expressed as a percentage of the cost of the construction Work.

1.13 "Open-Book Process" is the process used for establishing costs and subsequent GMP. The process requires the cost to be developed in a completely transparent manner, with no hidden costs or inflated amounts. Transparency means full, confidential disclosure of all the details and can include third party verification, if required. Construction estimates should be based on the actual cost of the Work. This can mean actual labor, expenses, materials, equipment, and

production rates for the self-performed scope, combined with stand-alone subcontractor quotes obtained via best-value, competitive bidding approach.

1.14 "Project(s)" means only those projects that were identified in RFQ #Q-19-04-COC, as listed in Paragraph 3.1 of this Agreement.

1.15 "Project Manager" is the person designated by the City to provide direct interface with the Construction Manager with respect to the City's responsibilities, as identified on the specifications for each Project.

1.16 "Project Site" is the location of the Project, as identified on the specifications for each Project.

1.17 "Project Team" is comprised of the Construction Manager, the City, and the Design Engineer.

1.18 "Public Record" shall have the meaning given in Section 119.011(12), Florida Statutes, as may be amended.

1.19 "Subcontractor" includes only those having a direct contract with the Construction Manager, and includes one who furnished material worked to a special design according to the plans or specifications of this Work, but does not include one who merely furnishes material not so worked.

1.20 "Value Engineering" is a project evaluation technique used during the Pre-Construction Phase that seeks to reduce costs and/or increase value by analyzing the functional requirements of a Project's materials, methods, components, and subsystems consistent with specified performance, reliability, maintainability, aesthetic, safety, and security criteria to ensure that it provides the best use of available Project funds.

1.21 "Work" or **"Services"** shall be used interchangeably and shall include the performance of the work agreed to by the parties for each Assigned Project, consistent with the projects described in Paragraph 3.1 of this Agreement. Work includes labor or materials or both, equipment, transportation, or other facilities necessary to complete the contract.

2.0 TERM OF AGREEMENT

2.1 The term of this Agreement shall commence on the Effective Date and shall continue until the completion of the Projects described in Section 3.1 below, unless earlier terminated pursuant to the terms of this Agreement. Unless otherwise specified in a notice of termination, any Assigned Project in effect at the termination of this Agreement shall remain in effect until completion of said Assigned Project, and all of the terms and conditions of this Agreement shall survive until completion of all Assigned Projects.

3.0 GENERAL DESCRIPTION OF SERVICES

3.1 Projects. The Projects for which Construction Manager may be assigned by the City to provide services under this Agreement are limited to the following:

Water Projects

The Claude H. Dyal Water Treatment Plant (Dyal WTP) consists of a surface water treatment plant with a rated capacity of 12 MGD, expandable to 24 MGD, and a fully built out ground water treatment plant rated to treat 60 MGD. Average daily flows from the Dyal WTP annually are approximately 22.7 MGD. The disinfection system in place utilizes 4 ammoniators and 11 chlorinators, with associated storage and supply systems.

A. Chemical Conversion and Reliability Improvements Project
   - Chlorine gas and anhydrous ammonia conversions at the Dyal WTP.
   - Installation of a redundant 54-inch pump discharge transmission main and associated flow meter and vault. Included in this portion of work are new Generator and High Service Pump Buildings to include; associated mechanical piping, flow meter and vault, controls, piping connecting transfer pump line to suction line, new emergency generators, and refurbishment and relocation of the existing high service pumps #2 and #3.
   - Addition of a pressurized water main to create a loop to feed the existing 8 inch main loop on the south half of the plant site.
   - Plant site improvements to include a new maintenance/training building, modifications to the plant main entrance road, improvements to main entrance security, other security improvements, and associated drainage improvements.

B. Banana River Pump Station Improvements
   - Replacement of the two existing 2MG tanks at the Banana River Tank Site
   - Improvement to the chemical feed systems

C. Viera Pump Station Chloramination Conversion
   - Change existing chlorination system to a chloramination system to include new chemical injection system and associated infrastructure

D. Groundwater Filter Effluent Pipe Connection to Surface Water Clearwell
   - Connection of the groundwater filter effluent to the new surface water clearwell effluent pipe

E. Improvements to the Ozone System at the Dyal WTP
   - Chiller Replacement and Generator Improvements
   - Improvements to the Ozone System Contactor

F. Re-Carbonation Basin Expansion, Reconfiguration, and Improvements

G. Installation of third Sulfuraetor and Multipurpose Building at the Wewahootee site

H. Replacement of Dyal Finished Water 5MG Steel Ground Storage Tank

I. Surface Water (SW) Dewatering Improvements
   - Update of the SW polymer feed system and associated controls.
   - Building improvements to include HVAC and structural repairs

J. Rehabilitation of the Lime Residual Gravity Thickener Nos. 1, 2, and 3
   - Complete replacement of Gravity Thickener No. 3
   - Rehabilitation of Gravity Thickener Nos. 1 and 2
   - Dewatering Storage Improvements
   - Building Improvements

K. Wellfield Security Improvements
   - Increased security of our western wells to include fencing, cameras, lighting, and motion sensors.
   - Includes associated fiber installation

Wastewater Projects

The Jerry Sellers WRF is a 4.5 MGD AADF biological nutrient removal (BNR) facility providing tertiary treatment to allow wastewater effluent to be reclaimed for use in landscape irrigation. The BNR process is a modified five-stage Bardenpho process designed to remove carbonaceous biological oxygen demand (CBOD5), total nitrogen, and total phosphorus. Secondary clarification and tertiary filtration are provided to remove total suspended solids (TSS), followed by disinfection.

A. Biosolids Improvements Project
   - Improvements to the Jerry Sellers WRF biosolids treatment, including the replacement of existing belt filter presses and improvements to the existing building, addition of Aerobic Digester No. 3, and the replacement of the Aerobic Digester Blowers.

B. Chemical Storage Relocation
   - Relocating the chemical storage and feed facilities for greater control and automation of the process.

C. Internal Recycle Pump Replacement

D. Local Control Panel (LCP) # 1 Rehabilitation

E. Reclaimed Water Pump Replacements

F. Replacement of Motor Control Center (MCC) #7 and #8

G. Transfer Pump Replacements

H. Construction of valve vault and replacement of valves located near the digesters

The above are general descriptions of the Projects and will be further defined and clarified by the City during the term of this Agreement.

3.2 Definition of Services. The Construction Manager agrees to furnish its best skill and judgment and to cooperate with the Design Engineer, where applicable, in furthering the interests of the City. The Construction Manager agrees to furnish efficient business administration and superintendence and to use its best efforts to complete each Assigned Project in an expeditious and economical manner consistent with the interests of the City. The Construction Manager agrees to furnish construction services as set forth herein and required for completion of each Assigned Project on a guaranteed maximum price basis. The Construction Manager represents that it is thoroughly familiar with and understands the requirements of the referenced Projects and that it is experienced in the administration and construction of building projects of the types and scopes referenced above. The Construction Manager represents to the City that it has all necessary construction education, skill, knowledge, and experience required for these Projects and will maintain, at all times during the term of this Agreement, such personnel on its staff to provide the Services contemplated hereby within the time periods required for each Assigned Project. In addition, Construction Manager represents that it has, and all of the Subcontractors performing Services under this Agreement will have, all applicable licenses required by the State of Florida to perform such Services. The Construction Manager acknowledges that it is not guaranteed nor entitled to provide services to the City in connection with any particular Project by virtue of entering into this Agreement with the City and that the City may, in its sole discretion, decline to assign any Project to Construction Manager.

3.3 Project Team. The Construction Manager, the City, and the Design Engineer will work as a team through construction completion of each Assigned Project. The Construction Manager shall provide leadership to the Project Team on all matters relating to construction. The Design Engineer will provide leadership to the Project Team on all matters relating to design. When performing any Services under this Agreement, the Construction Manager shall utilize the key personnel described in the GMP Amendment. In the event any such personnel discontinue employment with Construction Manager, Construction Manager shall promptly replace such personnel with individuals approved by the City, in writing, which approval will not be unreasonably withheld.

3.4 Project Schedule/Time of the Essence. For each Assigned Project, the Construction Manager will provide the City with a preliminary schedule covering the Pre-Construction and Construction Phases. This preliminary schedule shall serve as the framework for the subsequent development of all detailed construction schedules described in this Agreement or the Contract Documents. The Construction Manager shall at all times carry out its duties and responsibilities as expeditiously as possible and in accordance with the Assigned Project schedule, subject to delays in the schedule not the fault of the Construction Manager or its Subcontractors. Time is of the essence in the performance of this Agreement.

3.5 Preparation/Sufficiency of Site. The Construction Manager 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 Assigned

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 Assigned Project; (iii) familiarize itself with the City's layout and design requirements, conceptual design objectives, and budget for the Assigned Project; (iv) familiarize itself with pertinent Assigned Project dates, including the Assigned Project schedule; (v) review and analyze all Assigned 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 Assigned Project. If the Assigned Project involves modifications to any existing structure(s) or other man-made feature(s) on the Project Site, the Construction Manager shall also review all as-built and record drawings, plans, and specifications of which the Construction Manager has been informed by 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 Construction Manager resulting from its failure to familiarize itself with the Project Site or pertinent documents shall be deemed waived.

3.6 Contract Documents. The Contract Documents are complementary, and what is called for by any one shall be as biding as if called for by all. The intent of the Contract Documents is to include all labor, materials, equipment, transportation, and incidentals necessary for the proper and complete execution of the Work for each Assigned 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.

3.7 Priority of Documents. In the event of discrepancies among the Contract Documents, priority shall be given in the following order:

First	GMP Amendment
Second	This Agreement, including all Exhibits
Third	Proposal
Fourth	Special Provisions
Fifth	Instructions to Bidders
Sixth	Technical Provisions
Seventh	Drawings
Eighth	Performance and Payment Bonds

4.0 CITY'S DUTIES, OBLIGATIONS & RESPONSIBILITIES

4.1 Project Information; Bidding. When a Project is developed by the City, it will notify the Construction Manager of the Project in the form of a bid document and will supply relevant information concerning the Project (for example, specifications, design drawings, sketches, schedule expectations, and budget). Construction Manager will be given the opportunity to submit a proposal based on the Project information supplied by the City. The proposal shall include the Construction Manager's Pre-Construction Phase Services Fee (lump sum amount), General Conditions Fee (percentage of the estimated cost of construction), Contractor's Fee

(percentage of the estimated cost of construction), and insurance and bond costs (percentage of the estimated cost of construction). Construction Manager's response time for developing a proposal when notified of a Project will be based on the type of work to be assigned and will be stipulated by City in the bid document. If a site visit is required for the Project, the City shall state that in the bid document to Construction Manager.

The City will review the proposals submitted and select based on the lowest, most responsive bid. Upon selection, the City will issue (i) a Notice to Proceed and (ii) an executed City purchase order to Construction Manager.

4.2 City's Budget. The City shall establish and update a budget for each Project, including the amount allocated for construction, the City's other costs, and reasonable contingencies related to these costs as appropriate.

4.3 City's Representative. The City shall designate a Project Manager as its representative authorized to act on its behalf with respect to each Project.

4.4 Reservation of Rights; No Guarantee. The City reserves the right, at its discretion, to perform any services related to this Agreement or to retain the services of other construction management companies to provide professional services. The City does not guarantee that any Work will be assigned to Construction Manager under this Agreement. The City reserves the right to assign or contract for professional services with any party in its sole discretion. No provision of this Agreement shall be construed to require the City to assign any Work or Project to Construction Manager under this Agreement.

4.5 Time for Performance. The City shall review and approve or take other appropriate action on all design submittals within the timeframes set forth in the Assigned Project schedule.

4.6 Purpose of City's Review. 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 each Assigned Project. No review, inspection, or approval by the City of such Work or documents shall relieve the Construction Manager 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 Construction Manager 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 Construction Manager 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 Design Engineer to the Construction Manager if the City becomes aware of any fault or defect in the Assigned Project or non-conformance with the Contract Documents.

4.7 Status of City. 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 Construction Manager, for any of the foregoing purposes, be deemed the agent of the City.

4.8 City's Utilities. The Construction Manager shall be responsible to provide and pay for consumption of, and connections to, utilities required for temporary service and construction unless otherwise directed by the City.

5.0 CONSTRUCTION MANAGER'S SERVICES. The Construction Manager's Services to be provided hereunder shall include, but are not limited to, those described or specified herein. The services described or specified shall not be deemed to constitute a comprehensive specification having the effect of excluding services not specifically mentioned.

5.1 General Project Services. For each Assigned Project, the Construction Manager agrees to:

a. Identify a representative authorized to act as the project manager on behalf of the Construction Manager. This person shall be designated at the beginning of the Pre-Construction Phase and shall be the project manager through completion of the Construction Phase. The designee will need to be approved by the City and no substitutions will be allowed without prior written approval by the City.

b. Provide all services required to professionally complete the Work in an expeditious and economical manner consistent with the Contract Documents and the best interests of the City.

c. Endeavor to develop, implement, and maintain, in consultation with the City, Design Engineer, and subcontractors, a spirit of cooperation, collegiality, and open communication among the parties so that the goals and objectives of each are clearly understood, potential problems are resolved promptly, and, upon completion, the Assigned Project is deemed a success by all parties.

d. Perform the Services in accordance with schedule requirements.

e. Participate in, and cooperate with, design phase, construction phase, and post-occupancy commissioning, validation, and other quality assurance and quality control processes.

f. Complete all Work by the required date of substantial completion. The Construction Manager shall submit an initial construction schedule within the timeframe set by the City; a final construction schedule with the GMP Proposal; and revised construction schedules in accordance with the Contract Documents. The construction shall complement, and shall not conflict with, the design schedule.

g. Comply with City's policies, project management guides, and all requirements of the Contract Documents.

h. Expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. If the City agrees to procure any items prior to the establishment of the GMP pursuant to Section 5.5 below, the City shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the GMP, the City shall assign all contracts for these items to the Construction Manager, and the Construction Manager shall thereafter accept responsibility for them.

5.2 Pre-Construction Phase Services.

a. Scope of Services. The Construction Manager's Pre-Construction Phase Services for each Assigned Project will be set forth in the "Scope of Services" section of the Instruction to Bidders for the Project.

b. Commencement of Services. Construction Manager shall commence performance of Pre-Construction Phase Work within ten (10) days after receipt from the City of both the executed purchase order and the Notice to Proceed. The Pre-Construction Phase shall be complete once the GMP Proposal has been submitted by the Construction Manager, approved by the City, and made a part of the Contract Documents. The GMP Proposal shall be submitted at the ninety percent (90%) design phase, which shall be dictated by the design schedule.

c. Project Kick-Off Meeting. Within ten (10) calendar days following receipt of the Notice to Proceed/original purchase order, a mandatory project kick-off meeting will be held with the City and Design Engineer to discuss the Pre-Construction Phase Work and support of the City's Design Engineer in developing the design.

5.3 Guaranteed Maximum Price Proposal.

a. At ninety percent (90%) completion, the Construction Manager shall prepare a GMP Proposal for the City's review and acceptance. The GMP Proposal shall include the Construction Manager's General Conditions fee, cost of the construction Work, payment and performance bond costs, building permit allowance, insurance costs, project construction contingency, and Contractor's Fee. The GMP Proposal shall be based upon the drawings and specifications and the Contract Documents.

b. The GMP will include an amount agreed upon by the City and Construction Manager as a contingency to be used to pay for unforeseeable conditions. Unforeseeable condition expenditures require prior written consent of the City before execution of the work.

c. The Construction Manager shall include with the GMP Proposal a written statement of its basis, which shall include the following:

(i) A list of the drawings and specifications, including all addenda thereto, and the conditions of the contract;

(ii) A list of the clarifications and assumptions made by the Construction Manager in preparation of the GMP Proposal, including assumptions, permits, bonds, insurance, and all items required to complete the Project, to supplement the information provided by the City and contained in the drawings and specifications;

(iii) A statement of the proposed GMP, including a statement of the estimated cost of the Work organized by trade categories or systems, allowances, contingency, and the Construction Manager's fee;

(iv) The anticipated construction schedule and date of substantial completion upon which the proposed GMP is based; and

(v) A mutually agreeable date by which the City must accept the GMP.

d. The Construction Manager shall meet with the City to review the GMP Proposal. In the event that the City discovers any inconsistencies or inaccuracies in the information presented, it shall promptly notify the Construction Manager, who shall make appropriate adjustments to the GMP Proposal, its basis, or both.

e. If the City notifies the Construction Manager that the City has accepted the GMP Proposal in writing by the date specified in the GMP Proposal, the GMP Proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of the GMP, the City and the Construction Manager shall execute the GMP Amendment. The GMP Amendment shall outline the scope of Work, the technical documents, any assumptions, clarifications, or technical exclusions, the Assigned Project schedule, liquidated damages dollar amount per day, and the GMP Proposal for the Assigned Project.

f. The Construction Manager shall not incur any cost to be reimbursed associated with the Construction Phase of the Work prior to the commencement of the Construction Phase, unless the City provides prior written authorization for such costs.

g. The City shall authorize the Design Engineer to provide the revisions to the drawings and specifications to incorporate any agreed-upon assumptions and clarifications contained in the GMP Amendment. The City shall promptly furnish those revised drawings and specifications to the Construction Manager as they are revised. The Construction Manager shall notify the City of any inconsistencies between the GMP Amendment and the revised drawings and specifications.

5.4 Construction Phase Services.

a. Scope of Services. The Construction Manager's Construction Phase Services for each Assigned Project will be set forth in the "Scope of Services" section of the Instruction to Bidders for the Project.

b. Commencement of Services. Construction Manager shall commence performance of Construction Phase Work upon the City's acceptance of the Construction Manager's GMP Proposal and the execution of the GMP Amendment. The commencement and completion time of the Construction Phase of the Work and the liquidated damages dollar amount per calendar day shall be included in the GMP Amendment.

c. Construction Phase Conference. Within twenty (20) days after the effective date of the GMP Amendment, but before the Construction Manager starts the Construction Phase, a mandatory pre-construction conference will be held at the Project Site for review and acceptance of the schedules, to establish procedures for handling shop drawings and other submittals and for processing applications for payment, and to establish a working understanding among the parties as to the Work

5.5 Direct Purchase Program. The City may elect to implement a direct purchase program whereby it may purchase materials and equipment included in any subcontractor's bid for a portion of the Work directly from the supplier of such materials or equipment in order to achieve sales tax savings. Such materials and equipment are referred to as "Direct Purchase Materials." If City elects to implement a direct purchase program, it shall so notify Construction Manager in writing, and the terms of this paragraph shall govern, along with City's policies on the subject in effect at the time Construction Manager commences construction of the Assigned Project. The minimum value for a direct purchase shall be $100,000. The Construction Manager shall obtain Builder's Risk insurance on the Direct Purchase Materials naming the City as the insured or an additional insured, provided City shall reimburse Construction Manager for the cost of such insurance as provided by this Agreement. Construction Manager shall be responsible for safeguarding all Direct Purchase Materials on the Project Site on City's behalf.

6.0 CONTRACT SUM.

6.1 Payments to Construction Manager. The City will pay the Construction Manager as follows, with the specific amounts and/or percentages to be set forth on each Assigned Project-specific proposal as agreed to and accepted by the City.

a. Pre-Construction Services Fee. The fixed fee for the Construction Manager's Pre-Construction Services, which fee includes all direct and indirect costs incurred by the Construction Manager in the proper performance of the Pre-Construction Services.

b. General Conditions Fee. The General Conditions Fee for the Construction Phase, exclusive of physical construction, expressed as a percentage of the cost of the Construction Phase Work for the Project.

c. Contractor's Fee. The Construction Manager's profit for the Construction Phase Work, expressed as a percentage of the cost of construction Work for the Assigned Project.

d. Bonds. The Construction Manager's performance and payment bonds as required by the Contract Documents, expressed as a percentage of the cost of construction Work for the Assigned Project.

e. Insurance. The Construction Manager's insurance costs for the Project as required by the Contract Documents, expressed as a percentage of the cost of construction Work for the Assigned Project.

6.2 Guaranteed Maximum Price. The GMP is the construction price agreed to between the Construction Manager and the City (as set forth in the GMP Amendment) and is the maximum total price that the Construction Manager guarantees not to exceed for the Construction Phase of the Assigned Project. The GMP does not include the services rendered during the Pre-Construction Phase.

a. The GMP Amendment is a document that outlines the scope of the Work, the technical documents, assumptions, clarifications, technical exclusions, Project schedule, and GMP Proposal for the Assigned Project. The executed GMP Amendment shall automatically become a part of the Contract Documents and shall establish the GMP, the key supervisory personnel for the Assigned Project, the contract duration for the Assigned Project, liquidated damages dollar amount per day, and all required bond and insurance documents.

b. If the City and the Construction Manager are unable to agree on a GMP for the Construction Phase, the City shall terminate this Agreement as to that Assigned Project and direct the Design Engineer to complete the design and prepare construction drawings and specifications for public bidding of the Construction Phase of the Project. The Construction Manager shall not be permitted to submit a bid for the public bidding of the Construction Phase of the Project.

c. The Construction Manager guarantees that the contract sum (exclusive of the Pre-Construction Services Fee) shall not exceed the GMP set forth in the GMP Amendment, as it may be modified from time to time. To the extent the cost of the Work exceeds the GMP, the Construction Manager shall bear such costs in excess of the GMP without reimbursement or additional compensation from the City.

d. The GMP is subject to additions and deductions by Change Order as provided in the Contract Documents, and the dates of substantial and final completion shall be subject to adjustment as provided in the Contract Documents.

6.3 Construction Manager's Contingency.

a. The Construction Manager's contingency, established in the GMP, may be utilized, with the City's concurrence, for the following reasons:

(i) errors and omissions in the Construction Manager's bidding and scoping processes;

(ii) reasonable schedule recovery;

(iii) means, methods, and materials reasonably inferred from the Contract Documents;

(iv) subcontractor non-performance or default;

(v) Work not included in the Contract Documents that is necessary to cause the Assigned Project to conform to applicable building codes but was not identified as missing during the review of Contract Documents (through no fault of the Construction Manager), but expressly excluding any legal costs and expenses, including, without limitation, attorneys' fees and costs, associated with the Assigned Project;

(vi) other costs incurred by the Construction Manager that are not cost of the Work or General Conditions cost, for provision of management services necessary to complete the Assigned Project in an expeditious and economical manner consistent with the Contract Documents and the best interests of the City, but expressly excluding any legal costs and expenses, including, without limitation, attorneys' fees and costs, associated with the Assigned Project.

b. If upon completion of seventy-five percent (75%) of the Work, the remaining amount of contingency exceeds one-half of the amount of the initial post-buyout contingency, such excess shall be transferred via Change Order to the City.

6.4 Buyout Savings.

a. If Construction Manager receives bids for portions of the Work that are less than the amounts budgeted in the GMP proposal approved by City for such portions of the Work, such buyout savings shall first be utilized to offset shortfalls on other bid packages.

b. If, after offsetting any shortfalls, buyout savings remain, at the time provided in the Project schedule for the award of subcontracts, all buyout savings shall be returned to the City via "no cost" Change Order.

c. Use of Buyout Savings/Sales Tax Savings. The net amount of buyout savings and savings from City's purchase of Direct Purchase Materials may be utilized by the City for the following or other reasons:

(i) City's or Design Engineer's requested changes;

(ii) additive bid alternates and deductive credits;

(iii) design errors or omissions in the Contract Documents that were not detected by the Construction Manager through no fault of Construction Manager, including Work necessary to cause the Assigned Project to conform to applicable building codes;

(iv) differing/unforeseen existing conditions, as permitted by the Contract Documents.

6.5 Changes to the Guaranteed Maximum Price.

a. If the GMP has been established and when a specific bidder (i) is recommended to the City by the Construction Manager, (ii) is qualified to perform that portion of the Work, and (iii) has submitted a bid that conforms with the requirements of the Contract Documents without reservations or exceptions, but the City requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the construction schedule and the GMP by the difference between the bid of the person or entity recommended to the City by the Construction Manager and the amount and time requirement of the person or entity designated by the City.

b. Any changes to the scope of work that occur after the approval of the GMP Proposal will be addressed via the Change Order process.

6.6 Progress Payments. Partial payments calculated from completed Work in place and acceptable to the City at the unit bid prices or agreed-upon schedule of values will be made on or about the fifteenth (15^{th}) of each month on pay estimates based on the previous month's progress. The Construction Manager shall, after the first of each month, submit an invoice for materials used and Work performed for the previous month. A form of pay estimate, stating that the bill is fair and equitable and in exact accord with contract prices, will be utilized for pay purposes. Once the Construction Phase of the Work commences, ten percent (10%) of the amount due and payable to the Construction Manager will be retained from each month's partial payment. Final payment will be accomplished as prescribed in the Contract Documents and will be based on complete Work in place. The Construction Manager shall (i) provide satisfactory evidence that it has acquired title to the materials, that materials have been paid for, and that the material will be used to perform Work for the Assigned Project, and (ii) provide a Consent of Surety for the progress payments.

6.7 Florida Prompt Payment Act. All payments to be made hereunder shall be due and payable as provided by the Florida Prompt Payment Act, Section 218.70 et. seq., Florida Statutes.

7.0 GENERAL TERMS AND CONDITIONS

7.1 Detail Drawings and Instructions. The City's Project Manager will furnish, with reasonable promptness, additional instructions by means of drawings or otherwise, necessary for the proper execution of the Work. All such drawings and instructions will be consistent with the Contract Documents, true developments thereof, and reasonably inferable therefrom.

7.2 Copies of Drawings Furnished. Unless otherwise provided in the Contract Documents, the City will furnish to Construction Manager, free of charge, all copies of drawings and specifications reasonably necessary for the execution of the Work.

7.3 Order of Completion. Prior to the start of the Work, Construction Manager shall submit schedules that show the order in which the Construction Manager proposes to carry on the Work with dates at which the Construction Manager will start the several parts of the Work and estimated dates of completion of the several parts. The City's Project Manager may order the schedule to be supplemented or amended as necessary to afford proper continuity of the Work.

7.4 Drawings and Specifications on the Work. The Construction Manager shall keep one copy of all drawings and specifications of the Work in good condition available to the City and its representatives.

7.5 Ownership of Drawings. All drawings, specifications, and copies thereof furnished by the City are its property. They are not to be used on other work and, with the exception of the signed contract set, are to be returned to the City on request, at the completion of the Work.

7.6 Construction Manager's Understanding. It is understood and agreed that at such time as Construction Manager is authorized to proceed with an Assigned Project by the City, the Construction Manager shall carefully examine the Contract Documents and Project Site, satisfy itself as to the nature and location of the Work, the conformation of the ground, the character, quality, and quantity of the materials to be encountered, the character of the equipment and facilities needed preliminary to and during the prosecution of the Work, the general and local conditions, and all other matters which can in any way affect the Work under the Contract Documents. No verbal agreement or conversation with any officer, agent, or employee of the City, either before or after the execution of this Agreement or the assignment of any Project, shall affect or modify any of the terms or obligations contained in the Contract Documents.

7.7 Materials; Appliances; Employees. Unless otherwise stipulated, the Construction Manager shall provide and pay for all materials, fuel, labor, water, tools, sanitary facilities, power, transportation, and other facilities necessary for the execution and completion of the Work. Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of good quality. The Construction Manager shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

The City of Cocoa proudly supports and encourages buying USA domestic materials. Products incorporated into the Work shall be produced or manufactured in the United States of America as defined by the American Recovery and Reinvestment Act of 2009 (ARRA). This Project is not funded by the ARRA.

The City will not pay for material stored in place.

The Construction Manager shall at all times enforce strict discipline and good order among its employees and shall not employ on the Work any unfit person or anyone not skilled in the work assigned to him.

7.8 Royalties and Patents. The Construction Manager shall pay all royalties and license fees. The Construction Manager shall defend all suits or claims for infringement of any patent rights and shall save the City harmless from loss on account thereof except that the City shall be responsible for all such loss when a particular process or the product of a particular manufacturer or manufacturers is specified, unless the City has notified the Construction Manager prior to the signing of this Agreement or included in the specifications a proviso that there may be a patented process or product included in the Assigned Project.

7.9 Surveys, Permits, and Regulations. The Construction Manager will furnish all surveys unless otherwise specified. Permits and licenses necessary for the prosecution of the Work shall be secured and paid for by the Construction Manager. The Construction Manager shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the Work as drawn and specified. If the Construction Manager observes that the drawings and specifications are at variance therewith, it shall promptly notify the City in writing and any necessary changes shall be adjusted as provided in the contract for changes in the Work. If the Construction Manager performs any work knowing it to be contrary to such laws, ordinances, rules, and regulations and without such notice to the City, the Construction Manager shall bear all costs arising therefrom.

The Construction Manager shall continuously maintain adequate protection for all of its Work from damage and shall protect the City's property from injury or loss. The Construction Manager shall make good any such damage, injury, or loss. The Construction Manager shall adequately protect adjacent property as provided by law and the Contract Documents and shall provide and maintain all guard fences, lights, and other facilities for protection required by public authority or local conditions.

7.10 Inspection of Work. The City and its representatives shall at all times have access to the Work. The Work will be conducted under the general direction of the City and is subject to inspection by its appointed inspectors to ensure compliance with the terms of the Contract Documents. 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 Construction Manager 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 Construction Manager 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.

Re-examination of requested work may be ordered by the City. If such work is found in accordance with the Contract Documents, the City will pay the cost of re-examination and replacement provided the Construction Manager makes a claim therefor. If such work is found not in accordance with the Contract Documents, the Construction Manager shall pay such cost,

including compensation for professional services, and an appropriate deductive Change Order shall be issued.

7.11 Superintendent Supervision. The Construction Manager shall keep on the Project Site during its progress a competent superintendent satisfactory to the City. The superintendent shall not be changed except with the written consent of the City, unless the superintendent proves to be unsatisfactory to the Construction Manager and ceases to be in its employ. The superintendent shall represent the Construction Manager and all directions given to him shall be binding. Important directions will be confirmed in writing to the Construction Manager. Other directions will be so confirmed on written request in each case.

If the Construction Manager, in the course of the Work, finds any discrepancy between the drawings and the physical conditions of the locality, or any errors or omission in the drawings or in layout as given by points and instruction, it shall be the Construction Manager's duty to immediately inform the City, in writing, and the City will promptly verify the same. Any work done after such discovery, until authorized, will be done at the Construction Manager's risk.

Neither party shall employ or hire any employees of the other party without the other party's consent.

7.12 Changes in the Work. The City, without invalidating the contract, 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:

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

If none of the above methods is agreed upon, the Construction Manager, provided it receives an order as above, shall proceed with the work. In such case and also under case (C), the Construction Manager shall keep and present in such form as the City's Project Manager may direct, a correct account of the net cost of labor and materials, together with vouchers. In any case, the City's Project Manager will certify to the amount, including reasonable allowances for overhead and profit, due to the Construction Manager. Pending final determination of value, payments on account of changes will be made on the City's Project Manager's estimate.

7.13 Claims for Extra Cost. If the Construction Manager 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 in Section 7.12 (Changes in the Work). Claims will not be processed unless filed in writing before any work has commenced.

7.14 Deductions for Uncorrected Work. If the City's Project Manager deems it inexpedient to correct work injured or done not in accordance with the Contract Documents, an equitable deduction from the contract price will be made therefor by Change Order.

7.15 Delays and Extensions of Time. If the Construction Manager is delayed at any time in the progress of the Work by an act of neglect of the City or of its employees, or by any other contractor employed by the City, or by changes ordered in the Work or by strikes, lockouts, fire, unusual delay in transportation, unavoidable casualties or any causes beyond the Construction Manager's control, or by delay authorized by the City's Project Manager pending arbitration, or by any cause which the City's Project Manager may decide to justify the delay, then the time of completion will be extended for such reasonable time as the City's Project Manager may decide.

No such extension will be made for delay occurring more than seven (7) days before the claim is made in writing to the City's Project Manager. In the case of a continuing cause or delay, only one claim is necessary.

If no schedule or agreement stating the dates upon which drawings shall be furnished is made, then no claim for delay will be allowed on account of failure to furnish drawings until two (2) weeks after demand for such drawings and not then unless such claim be reasonable.

Notwithstanding the above, an extension of contract time, so granted, shall be the Construction Manager's sole and exclusive remedy for delay, disruption, interference, inefficiency, acceleration, hindrance, and costs thereto.

7.16 Correction of Work before Final Payments. The Construction Manager shall promptly correct all work condemned by the City's Project Manager as failing to conform to the Contract Documents, shall promptly replace and re-execute its own Work in accordance with the Contract Documents and without expense to the City, and shall bear the expense of making good all Work.

If the Construction Manager does not correct such condemned Work and material within ten (10) working days' time as fixed by written notice (punch list), the City may correct it at the expense of the Construction Manager. If the Construction Manager does not pay the expense of such correction within ten (10) days thereafter, the City may, upon ten (10) days written notice, deduct all the cost and expenses that should have been borne by the Construction Manager.

7.17 Suspension of Work. The City may at any time suspend the Work or any part thereof, by giving five (5) days' notice to the Construction Manager in writing. The Work shall be resumed by the Construction Manager within ten (10) days after the date fixed in a written

notice to resume the Work from the City to the Construction Manager. The City will reimburse the Construction Manager for expenses incurred in connection with the Work under the Contract Documents as a result of such suspension unless the suspension was ordered by the City's Project Manager to enforce the terms of the Contract Documents or for any violation of the Contract Documents.

7.18 City's Right to Reassign Work. If the Construction Manager should neglect to prosecute the Work properly or fail to perform any provision of the Contract Documents, the City, after three (3) days written notice to the Construction Manager, may, without prejudice to any other remedy it may have, make good such deficiencies at the Construction Manager's expense.

7.19 Removal of Equipment. In the case of annulment of this Agreement as to any Assigned Project before completion, from any cause whatever, the Construction Manager, if notified to do so by the City, shall promptly remove any part or all of its equipment and supplies from the property of the City, failing which the City will have the right to remove such equipment and supplies at the expense of the Construction Manager, and the City shall have the right to store such equipment and supplies at the Construction Manager's expense. The City shall incur no liability to the Construction Manager for loss or damage to the supplies and equipment so removed and/or stored.

7.20 Use of Completed Portions. The City will have the right to take possession of and use any substantially completed portion of the Work, notwithstanding the fact that the time for completing the entire Work or such portions may not have expired, but such taking possession and use will not be deemed an acceptance of any Work not completed in accordance with the Contract Documents. If such prior use increases the cost of or delays the Work, the Construction Manager will be entitled to such extra compensation, or extension of time, or both, as the City's Project Manager may determine.

7.21 Payments Withheld. The City may withhold or, on account of subsequently discovered evidence, nullify the whole or a part of any payment request to such an extent as may be necessary to protect itself from loss on account of:

A. Defective work not remedied.
B. Claims filed or reasonable evidence indicating probable filing of claims.
C. Failure of the Construction Manager to make payment properly to Subcontractors or for materials or labor.
D. The City's Project Manager's opinion that the contract cannot be completed for the balance then unpaid.
E. Failure to maintain adequate progress.

When the above grounds are removed, payment will be made for amounts withheld because of them.

7.22 Safety and Protection. The Construction Manager shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the

Work. The Construction Manager shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

A. All employees on the Project Site and other persons who may be affected thereby.
B. All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the Project Site.
C. Other property at the Project Site or adjacent thereto.

Construction Manager 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, Construction Manager 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 the City's Safety and Loss Control Program.

7.23 Damages. Any claim for damage arising under the Contract Documents shall be made in writing to the party liable within ten (10) days after the first observance of such damage and not later than the time of final payment, except as expressly stipulated otherwise in the case of faulty work or materials.

7.24 Liens. Anything contained in any of the Contract Documents notwithstanding, all progress payments and the final payment shall be paid by the City to the Construction Manager in compliance with the provisions of the Laws of Florida. The City shall withhold ten percent (10%) of the amount of each progress payment. The last payment due under the Contract Documents shall be paid by the City to the Construction Manager only after the Construction Manager has furnished the City with an affidavit stating that all persons, firms, or corporations who have furnished labor or materials, employed directly or indirectly in the Work, have been paid in full, and in addition, before the Construction Manager shall have the right to receive the final payment due under the contract, the Construction Manager shall furnish the City with releases of lien executed by all persons, firms, or corporations who have performed or furnished labor, services, or materials, directly or indirectly, used in the Work. The City shall have the right to demand and receive from the Construction Manger before it shall receive any progress payment, receipt bills showing payment in full for all labor, services, and materials incorporated into the Work, for the period of time for which the progress payment is due. Likewise, as a condition to receiving any progress payment, the City may require the Construction Manager to furnish any partial releases of lien executed by all persons, firms, and corporations who have furnished labor, services, or materials incorporated into the Work during the period of time for which the progress payment is due, releasing such lien rights as these persons, firms, or corporations may have for that period. If any of the laborers, subcontractors, or material men shall serve upon the City a "Notice to Owner" or shall otherwise put the City on notice that they are owed any unpaid money by the Construction Manager, the City shall have the right to pay these persons directly in the manner provided by Florida's Mechanic's Lien Law, and the City shall receive a credit therefor upon the contract price accordingly. The Construction Manager does hereby release, remise, and quit claim any and all

rights it would have otherwise enjoyed to perfect a mechanic's lien or any other type of statutory common law or equitable lien against the Work.

7.25 Subcontracts. The Construction Manager shall, as soon as practicable after signing the GMP Amendment, notify the City in writing of the names of subcontractors proposed for the Work and the description of work to be performed by each subcontractor. The Construction Manager shall not employ subcontractors unless they are approved in writing by the City.

The Construction Manager agrees that it is as fully responsible to the City for the acts and omissions of its Subcontractors and of persons either directly or indirectly employed by them as it is for the acts and omissions of persons directly employed by the Construction Manager. Nothing contained in the Contract Documents shall create any contractual relation between any Subcontractor and the City.

7.26 Points and Instructions. The Construction Manager shall provide reasonable and necessary opportunities and facilities for setting points and making measurements. It shall not proceed until he has made timely demand upon the City's Project Manager for, and has received from him such points and instructions as may be necessary as the Work progresses. The Work shall be done in strict conformity with such points and instructions.

7.27 City's Project Manager's Status. The City's Project Manager will have general supervision and direction of the Work. He has authority to stop the Work whenever such stoppage may be necessary to ensure the proper execution of the contract. He will also have authority to reject all work and materials that do not conform to the Contract Documents, to direct the application of forces to any portion of the Work, as in his judgment is required, to order the force increased or diminished, and to decide questions that arise in the execution of the Work.

7.28 City's Project Manager's Decisions. The City's Project Manager will, within reasonable time after their presentation to him, make decisions in writing on all claims of the Construction Manager and on all other matters relating to the execution and progress of the Work or the interpretation of the Contract Documents. All such decisions of the City's Project Manager shall be final.

7.29 One Year Correction Period. If within one (1) year after the date of substantial completion of an Assigned Project or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, the Construction Manager shall promptly, without cost to the City and in accordance with the City's written instruction, either correct such defective work, or, if it has been rejected by the City, remove it from the Project Site and replace it with non-defective work. If the Construction Manager does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, the City may have the defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, shall be paid by the Construction Manager.

8.0 LIQUIDATED DAMAGES FOR DELAY

8.1 Inasmuch as failure to substantially complete the Work according to the Assigned Project schedule will result in injury to the City, and as damages arising from such failure cannot be calculated with any degree of certainty, it is agreed that if the Work is not substantially completed within the time provided by the Assigned Project schedule, or within such further time, if any, as shall be allowed for time extensions in accordance with the provisions of the Contract Documents, the Construction Manager shall pay to the City as liquidated damages for such delay, and not as a penalty, the amount set forth in the GMP Amendment for each calendar day elapsing between the date fixed for substantial completion and the date such substantial completion is fully accomplished. The parties agree that said liquidated damages are reasonable given existing circumstances, including, without limitation, the range of harm that is foreseeable and the anticipation that proof of damages would be costly and impractical.

8.2 The liquidated damages shall be payable by the Construction Manager to the City under the Contract Documents, and shall not preclude the recovery of damages by the City under other provisions of the Contract Documents, except claims related to Construction Manager's delays in substantial completion. The City's right to receive liquidated damages shall in no manner affect the City's right to terminate the Contract Documents, as provided in this Agreement or elsewhere in the Contract Documents. The City's exercise of the right to terminate shall not release the Construction Manager from the obligation to pay said liquidated damages. Liquidated damages shall be the City's sole and exclusive remedy for delay.

8.3 When the City reasonably believes (i) that substantial completion will be inexcusably delayed; or (ii) that the Construction Manager will fail to achieve final completion by the date of final completion, the City shall be entitled, but not required, to withhold from any amounts otherwise due the Construction Manager the daily amount specified for liquidated damages for each calendar day of the unexcused delay. If and when the Construction Manager overcomes the delay in timely achieving substantial completion or final completion, or any part thereof, for which the City has withheld payment, the City shall promptly release to the Construction Manager those funds withheld, but no longer applicable, as liquidated damages.

9.0 AUDIT RIGHTS

9.1 The City may, upon reasonable notice, audit the records of the Construction Manager and its Subcontractors and suppliers during regular business hours, during the term of this Agreement and for a period of three (3) years after final payment is made by the City to Construction Manager for an Assigned Project or longer, if required by law. Such audits may be performed by a representative of the City or an outside representative engaged by City.

9.2 For purposes hereof, Construction Manager's "records" means any and all information, materials, and data of every kind and character, whether hard copy or in electronic form, which may, in City's judgment, have any bearing on or pertain to the Contract Documents, including, without limitation, books, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, written policies and procedures, time sheets, payroll registers, payroll records, cancelled payroll checks, subcontract

files (e.g., including proposals of successful and unsuccessful bidders, bid recap), original estimates, estimating work sheets, correspondence, Change Order files (including documentation covering negotiated settlements), back-charge logs and supporting documentation, invoices and related payment documentation, general ledgers, records detailing cash and trade discounts earned, insurance rebates and dividends, superintendent reports, drawings, receipts, vouchers, and memoranda.

9.3 City's authorized representative shall have reasonable access to the Construction Manager's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the Contract Documents, shall be provided adequate and appropriate work space at Construction Manager's facilities, may count employees at the Site, may be present for the distribution of payroll and shall have such other rights of access as may be reasonably necessary to carry out an audit.

9.4 If an audit discloses overpricing or overcharges, Construction Manager shall refund the overpayment. If an audit discloses overpricing or overcharges of one percent (1%) of the total amount paid hereunder, but in any event more than $200,000, whichever is less, in addition to making adjustments for the overcharges, the reasonable actual cost of the City's audit shall be reimbursed to the City by the Construction Manager. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the Construction Manager's invoices and/or records shall be made within ninety (90) calendar days from presentation of City's findings to Construction Manager.

9.5 Construction Manager shall ensure notice of City's audit rights is provided to its Subcontractors, suppliers, and any other vendor providing services or materials for each Assigned Project and shall ensure that each agreement it enters into pursuant hereto includes the provisions of this Article 9.0.

10.0 INSURANCE

10.1 Liability Amounts. During the term of this Agreement, Construction Manager shall be responsible for providing the types of insurance and limits of liability as set forth below.

a. Professional Liability. Proof of professional liability insurance shall be provided to the City for the minimum amount of $1,000,000 per occurrence and in the aggregate with a deductible not greater than $50,000.

b. General Liability. The Construction Manager shall maintain comprehensive general liability insurance in the minimum amount of $1,000,000 as the combined single limit for each occurrence, with a deductible no greater than $5,000, unless a higher deductible is pre-approved by the City Manager, to protect Construction Manager from claims of property damages and personal injury which may arise from any Services performed under the Contract Documents, whether such Services are performed by Construction Manager or by anyone directly employed by or contracting with Construction Manager.

c. Automobile Liability. The Construction Manager shall maintain comprehensive automobile liability insurance in the minimum amount of $1,000,000 per occurrence combined single limit for bodily injury, including wrongful death, and 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 Construction Manager or by anyone directly or indirectly employed by Construction Manager.

d. Workers' Compensation. The Construction Manager shall maintain, during the life of this Agreement, adequate Workers' Compensation Insurance and Employers' Liability Insurance in at least such amounts as are required by law for all of its employees performing Work for the City pursuant to this Agreement.

e. Environmental Impairment Insurance Minimum Requirements. If the Construction Manager will be locating portable fuel or lubricant storage tanks at the job site or will be storing or using hazardous chemicals on the job site, it shall maintain Environmental Impairment Insurance or "Pollution Insurance" with a limit of not less than $1,000,000 per occurrence and submit proof of same in the form of a certificate of insurance or an endorsement to its General Liability policy showing a pollution exclusion exception for each specific work product or storage container before work is begun.

f. Builder's Risk Insurance. If City and Construction Manager agree to proceed to construction on an Assigned Project under a GMP Amendment, then the Construction Manager shall, before any construction, acquire and maintain throughout the course of construction, Builder's Risk Insurance in a dollar amount equal to the full insurable value of the Work under the contract, which shall include "All Risk" coverage. The City shall be named as a "Loss Payee". The Construction Manager shall be responsible for equipment, materials, and supplies, to include the City's Direct Purchase equipment, until completion of the Assigned Project and acceptance by the City.

10.2 Special Requirements. Current, valid insurance policies meeting the requirements herein identified shall be maintained during the term of this Agreement. Renewal certificates shall be sent to the City thirty (30) days prior to any expiration date. There shall also be a thirty (30) day advance written notification to the City in the event of cancellation or modification of any stipulated insurance coverage. The City shall be an additional named insured on stipulated insurance policies included in Sections 10.1.b, 10.1.c, and 10.1.e herein, as its interest may appear, from time to time.

10.3 Cancellation, Change, or Non-Renewal. The insurance required by this Agreement shall include the liability and coverage provided herein, or as required by law, whichever requirements afford greater coverage. All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least thirty (30) days' prior written notice has been given to the City and Construction Manager by certified mail, return receipt requested. All such insurance shall remain in effect until final payment. In the event that Construction Manager shall fail to comply with the foregoing requirement, the City is authorized, but in no event shall be obligated, to purchase such insurance, and the City may bill Construction

Manager. The Construction Manager shall immediately forward funds to the City in full payment for said insurance. It is expressly agreed that neither the provision of the insurance referred to in this Agreement nor the City's acceptance of the terms, conditions, or amounts of any insurance policy shall be deemed a warranty or representation as to adequacy of such coverage. All insurance coverage shall be with insurer(s) rated as A+ by Best's Rating Guide (or equivalent rating and rating service as reasonably determined by the City Manager) and licensed by the State of Florida to engage in the business of writing of insurance or provided through the London Market for Professional Liability Insurance. The Construction Manager shall cause its insurance carriers, prior to the effective date of this agreement to furnish insurance certificates specifying the types and amounts of coverage in effect pursuant hereto, the expiration dates of such policies, and a statement that no insurance under such policies will be canceled without thirty (30) days' prior written notice to the City in compliance with other provisions of this Agreement. Further copies of all relevant policies will be provided to the City within thirty (30) days of the effective date of this agreement. If the City has any objection to the coverage afforded by or other provision of the insurance required to be purchased and maintained by Construction Manager in accordance with this Article 10.0 on the basis of its not complying with the Agreement, the City shall notify Construction Manager in writing thereof within thirty (30) days of the date of delivery of such certificates to the City. For all Work performed pursuant to this Agreement, Construction Manager shall continuously maintain such insurance in the amounts, type, and quality as required by the Agreement.

10.4 Independent Associates and Consultants. All independent associates and consultants employed by Construction Manager to perform any Services hereunder shall fully comply with the insurance provisions contained in this Article 10.0.

11.0 REPRESENTATIONS

11.1 The Construction Manager represents that the Services provided hereunder shall conform to all requirements of the Contract Documents; shall be consistent with recognized and sound CMAR practices and procedures; and shall conform to the customary standards of care, skill, and diligence appropriate to the nature of the Services rendered. The Construction Manager shall perform as expeditiously as is consistent with professional skill and care and the orderly progress of the Services to be performed hereunder. The Construction Manager's Services shall be consistent with the time periods established under Contract Documents. The Construction Manager shall provide the City with a written schedule for Services performed for each Assigned Project and such schedule shall provide for ample time for the City to review, for the performance of consultants (if any), and for the approval of submissions by authorities having jurisdiction over the Services. The Construction Manager's designated representative shall have the authority to act on Construction Manager's behalf with respect to the Services. In addition, Construction Manager's representative shall render decisions in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Services. Except with the City's knowledge and consent, Construction Manager shall not engage in any activity, or accept any employment, interest, or contribution that would reasonably appear to compromise Construction Manager's professional judgment with respect to the Services. The Construction Manager shall review laws, codes, and regulations applicable to Construction Manager's Services. The Construction

Manager's Services and construction shall comply with all applicable requirements imposed by all public authorities. The Construction Manager represents and warrants that it is familiar with, and accepts that it will perform the Services hereunder in a manner that complies with, all applicable requirements of law, codes, and regulations. The Construction Manager shall be responsible for the professional quality, technical accuracy, and the coordination of all plans, studies, reports, and other services furnished to the City under this Agreement. Unless this Agreement is terminated by the City, or terminated by Construction Manager for nonpayment of any proper invoices, or the City exercises its rights to perform the Services pursuant to Section 4.4 herein, Construction Manager shall be responsible for the satisfactory and complete execution of the Services described in the Contract Documents. The Construction Manager represents that it will carefully examine the scope of services required by the City in the Contract Documents, that it will investigate the essential requirements of the Services required by the Contract Documents, and that it will have sufficient personnel, equipment, and material at its disposal to complete the services set forth in the Contract Documents in a good professional and workmanlike manner in conformance with the requirements of the Contract Documents.

11.2 The Construction Manager represents that all principals, employees, and other personnel furnishing such Services shall be qualified and competent to perform the Services assigned to them and that such guidance given by and the recommendations and performance of such personnel shall reflect their best professional knowledge and judgment.

12.0 GUARANTEE AGAINST INFRINGEMENT

12.1 The Construction Manager guarantees that all Services performed under the Contract Documents for each Assigned Project shall be free from claims of patent, copyright, and trademark infringement. Subject to the limitation as to patents as stated in Section 7.8, Construction Manager shall indemnify, hold harmless, and defend the City, its officers, directors, employees, agents, assigns, and servants from and against any and all liability, including expenses, legal or otherwise, for actual or alleged infringement of any patent, copyright, or trademark resulting from the use of any goods, services, or other item provided under this Agreement. Notwithstanding the foregoing, Construction Manager may elect to provide non-infringing services.

13.0 DOCUMENTS

13.1 Public Records. Pursuant to Section 119.0701, Florida Statutes, and other applicable public records laws, Construction Manager agrees that any records, documents, transactions, writings, papers, letters, computerized information and programs, maps, books, audio or video tapes, films, photographs, data processing software, writings or other material(s), regardless of the physical form, characteristics, or means of transmission, of Construction Manager related, directly or indirectly, to the services provided to the City under this Agreement and made or received pursuant to law or ordinance or in connection with the transaction of official business by the City, may be deemed to be a public record, whether in the possession or control of the City or Construction Manager. Said records, documents, transactions, writings, papers, letters, computerized information and programs, maps, books, audio or video tapes, films, photographs, data processing software, writings or other material(s), regardless of the physical form,

characteristics, or means of transmission of Construction Manager are subject to the provisions of Chapter 119, Florida Statutes, and may not be destroyed without the specific written approval of the City's designated custodian of public records.

IF THE CONSTRUCTION MANAGER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSTRUCTION MANAGER'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, City Clerk's Office, 65 Stone Street, Cocoa, FL 32922.

Construction Manager is required to and agrees to comply with public records laws. Construction Manager shall keep and maintain all public records required by the City to perform the services as agreed to herein. Construction Manager shall provide the City, upon request from the City Clerk, copies 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 by law. Construction Manager shall 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. Upon completion of the Agreement, Construction Manager shall transfer to the City, at no cost, all public records in possession of Construction Manager, provided the transfer is requested in writing by the City Clerk. Upon such transfer, Construction Manager shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. However, if the City Clerk does not request that the public records be transferred, Construction Manager shall continue to keep and maintain the public records upon completion of the Agreement and shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City Clerk, in a format that is compatible with the information technology systems of the City. Should the City not possess public records relating to this Agreement which are requested to be inspected or copied by the City or any other person, the City shall immediately notify Construction Manager of the request and Construction Manager shall then provide such records to the City or allow the records to be inspected or copied within a reasonable time. If Construction Manager does not comply with a public records request, the City may enforce this Section to the extent permitted by law. Construction Manager acknowledges that if Construction Manager does not provide the public records to the City within a reasonable time, Construction Manager may be subject to penalties under Section 119.10, Florida Statutes. The Construction Manager acknowledges that if a civil action is filed against Construction Manager to compel production of public records relating to this Agreement, the court may assess and award against Construction Manager the reasonable costs of enforcement, including reasonable attorney fees. All public records in connection with this Agreement shall, at any and all reasonable times during the normal business hours of Construction Manager, be open and freely exhibited to the City for the purpose of examination, audit, or otherwise. Failure by Construction Manager to grant such public access and comply with public records laws and/or requests shall be grounds for immediate unilateral cancellation of this Agreement by the City upon delivery of a written notice of cancellation. If Construction Manager fails to comply with this Section, and the City must enforce this Section, or the City suffers a third party award of attorney's fees and/or damages for violating Chapter 119, Florida Statutes, due to Construction Manager's failure to comply with this Section, the City shall collect from

Construction Manager prevailing party attorney's fees and costs, and any damages incurred by the City, for enforcing this Section against Construction Manager. And, if applicable, the City shall also be entitled to reimbursement of all attorneys' fees and damages which the City had to pay a third party because of Construction Manager's failure to comply with this Section. The terms and conditions set forth in this Section shall survive the termination of this Agreement.

a. Reuse of Documents. All documents, including but not limited to, drawings, specifications, and data or programs stored electronically or otherwise, prepared by Construction Manager and its independent contractors and associates pursuant to this Agreement or related exclusively to the Services described herein shall be owned by the City and may be reused by the City for any reason or purpose at any time. However, the City agrees that the aforesaid documents are not intended or represented to be suitable for reuse by the City or others on any undertaking other than the Work outlined in this Agreement. Any reuse for an undertaking other than for the Work without verification or adaptation by Construction Manager, or its independent contractors and associates if necessary, to specific purposes intended will be at the City's sole risk and without liability or legal exposure to Construction Manager.

b. Ownership of Documents. The City and Construction Manager agree that upon payment of fees due to Construction Manager by the City for a particular design, report, inventory list, compilation, drawing, specification, model, recommendation, schedule, or otherwise, said design, report, inventory list, compilation, drawing, specification, technical data, recommendation, model, schedule, and other instrument produced by Construction Manager in the performance of this Agreement, or any Work hereunder, shall be the sole property of the City, and the City is vested with all rights therein. The Construction Manager waives all rights of copyright in said design, report, inventory list, compilation, drawing, specification, technical data, recommendation, model, schedule, and other instrument produced by Construction Manager in the performance of this Agreement, and hereby assigns and conveys the same to the City whether in the possession or control of Construction Manager or not.

c. Preexisting Ownership Rights to Documents. Notwithstanding any provisions to the contrary contained in this Agreement, Construction Manager shall retain sole ownership to its preexisting information not produced and paid for by the City under this Agreement including, but not limited to, computer programs, software, standard details, figures, templates and specifications.

14.0 ASSIGNMENT

14.1 The Construction Manager shall not assign or subcontract this Agreement, any Contract Documents hereunder, or any rights or any monies due or to become due hereunder without the prior, written consent of the City. Any Subcontractors employed by Construction Manager for any Work required under this Agreement shall require prior written approval from the City, unless previously approved in the Contract Documents. Any attempt to assign or subcontract the responsibilities and payments under this Agreement without the express prior written consent of the City shall be grounds for termination of the Agreement.

14.2 If upon receiving written approval from the City, any part of this Agreement is subcontracted by Construction Manager, Construction Manager shall be fully responsible to the City for all acts and/or omissions performed by the subcontractor as if no subcontract had been made.

14.3 If the City determines that any Subcontractor is not performing in accordance with this Agreement, the City shall so notify Construction Manager who shall take immediate steps to remedy the situation.

14.4 The Construction Manager, prior to the commencement of any Work by any Subcontractor, Construction Manager shall require the Subcontractor to provide the City and its affiliates with insurance coverage as set forth by the City.

15.0 INDEPENDENT CONTRACTOR

15.1 At all times during the term of this Agreement, the Construction Manager and any approved Subcontractors shall be considered an independent contractor(s) and not an employee(s) of the City.

16.0 DEFAULT BY CONSTRUCTION MANAGER; CITY'S REMEDIES

16.1 In addition to the City's right to terminate this Agreement for convenience under Article 17.0 of this Agreement, the City also reserves the right to revoke and terminate this Agreement for a default and to rescind all rights and privileges associated with this Agreement, without penalty, based on a default including, but not limited to, any of the following circumstances, each of which shall represent a default and breach of this Agreement:

a. The Construction Manager defaults in the performance of any material covenant or condition of this Agreement and does not cure such other default within thirty (30) calendar days after written notice from the City 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 thirty (30) calendar days, in which case Construction Manager shall have such time as is reasonably necessary to remedy the default, provided Construction Manager promptly takes and diligently pursues such actions as are necessary therefore; or

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

c. A writ of garnishment shall be served on the City, seeking to reach funds due or to become due to Construction Manager;

d. The Government of the United States or any state or county shall garnish, distrain, attach, or seek to reach funds due or to become due to the Construction Manager;

e. The Construction Manager persistently or repeatedly refuses or fails, except in cases of which extension of time is provided, to supply enough properly skilled workmen or proper materials;

f. The Construction Manager fails to make prompt payment to Subcontractors or for material or labor;

g. The Construction Manager persistently disregards laws, ordinances, or the instructions of the City's Project Manager;

h. The Construction Manager has acted grossly negligent, as defined by general and applicable law, in performing the Services hereunder; or

i. The Construction Manager has committed any act of fraud upon the City; or

j. The Construction Manager has made a material misrepresentation of fact to the City while performing its obligations under this Agreement; or

k. The Construction Manager has assigned this Agreement or any Contract Documents without the City's prior written consent.

16.2 Notwithstanding the aforementioned, in the event of a default by Construction Manager, the City shall have the right to exercise any other remedy the City may have by operation of law, without limitation, and without any further demand or notice.

16.3 In the event of such termination upon default and breach of this Agreement, the City may take possession of the Project Site and of all materials, tools, and appliances thereon and finish the work by whatever method the City may deem expedient. Any completed services performed by Construction Manager under this Agreement shall, at the option of the City, become the City's property and Construction Manager shall be entitled to receive equitable compensation for any Work completed to the satisfaction of the City. The Construction Manager, however, shall not be relieved of liability to the City for damages sustained by the City by reason of any breach of the Agreement, and the City may withhold any payments to Construction Manager for the purpose of setoff until such time as the amount of damages due to the City from Construction Manager can be determined.

17.0 TERMINATION

17.1 Notwithstanding any other provision of this Agreement, the City may, upon written notice to Construction Manager, terminate this Agreement, without penalty, if: (a) Construction Manager is in default pursuant to Article 16.0 Default; (b) Construction Manager makes a general assignment for the benefit of its creditors; (c) Construction Manager fails to comply with any condition or provision of this Agreement; or (d) Construction Manager 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 the City may have under this Agreement.

17.2 If the Work should be stopped under an order of any court, or other public authority for a period of three (3) months, through no act or fault of the Construction Manager or anyone employed by it, or if the City's Project Manager should fail to issue any estimate for payment within seven (7) days after it is due, or if the City fails to pay the Construction Manager within twenty (20) days of its maturity and presentation, any sum certified by the Project Manager or awarded by arbitrators, then the Construction Manager may, upon seven (7) days written notice to the City, stop work or terminate this contract and recover from the City payment for all Work executed and any loss sustained upon any plant or materials and reasonable profit and damages.

17.3 In addition, either party may terminate for convenience without penalty at any time upon thirty (30) days advance written notice.

17.4 In the event of termination, City 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.

18.0 FORCE MAJEURE

18.1 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 (with the exception of Construction Manager's labor force); extraordinary breakdown of or damage to the City's affiliates' generating plants, their equipment, or facilities; court injunction or order; federal and/or state law or regulation; order by any regulatory agency; or cause or causes beyond the reasonable control of the party affected; 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. If any circumstance of Force Majeure remains in effect for sixty (60) days, either party may terminate this Agreement.

19.0 GOVERNING LAW & VENUE

19.1 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.

20.0 HEADINGS

20.1 Article, section, and paragraph headings are for the convenience of the parties only and are not to be construed as part of this Agreement.

21.0 SEVERABILITY

21.1 In the event any portion or part of this Agreement is deemed invalid, against public policy, void, or otherwise unenforceable by a court of law, the parties shall negotiate an equitable adjustment in the affected provision of this Agreement. The validity and enforceability of the remaining parts of this Agreement shall otherwise remain fully intact.

22.0 WAIVER AND ELECTION OF REMEDIES

22.1 Waiver by either party of any terms, conditions, or provisions of this Agreement shall not be considered a waiver of that term, condition, or provision in the future.

22.2 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.

23.0 THIRD PARTY RIGHTS

23.1 Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and Construction Manager.

24.0 PROHIBITION AGAINST CONTINGENT FEES

24.1 The Construction Manager warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Construction Manager, 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 Construction Manager, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the City shall have the right to terminate the Agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

25.0 ENTIRE AGREEMENT

25.1 The Contract Documents, including this Agreement and any schedules, attachments, appendices, and exhibits attached hereto, constitutes the entire agreement between the City and Construction Manager with respect to the Services specified and all previous representations relative thereto, either written or oral, are hereby annulled and superseded. Any Project-specific modifications to this Agreement will be set forth in the Contract Documents for the Assigned Project.

26.0 NO JOINT VENTURE

26.1 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.

27.0 ATTORNEY'S FEES

27.1 Should any litigation arise concerning this Agreement between the parties, the parties agree to bear their own costs and attorney's fees, whether at settlement, trial, or on appeal.

28.0 COUNTERPARTS

28.1 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.

29.0 DRAFTING

29.1 The City and Construction Manager 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.

30.0 NOTICE

30.1 Any notices required to be given by the terms of this Agreement shall be delivered by hand or mailed, postage prepaid to:

For Construction Manager:

Wharton-Smith, Inc.
Attention: Nathan Hillard
750 Monroe Road
Sanford, FL 32771
(407) 321-8410 Phone
(407) 330-1092 Fax

For City:

City of Cocoa
Attention: City Manager
65 Stone Street
Cocoa, FL 32922
(321) 433-8688 Phone
(321) 433-8698 Fax

30.2 Either party may change the notice address by providing the other party written notice of the change pursuant to this Article 30.0.

30.3 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.

31.0 SOVEREIGN IMMUNITY

31.1 The City 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 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. Construction Manager agrees that City shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, City 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 Section shall survive termination of this Agreement.

32.0 CORPORATE REPRESENTATIONS BY CONSTRUCTION MANAGER

32.1 The Construction Manager hereby represents and warrants to the City the following:

a. The Construction Manager 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 the Contract Documents.

b. The undersigned representative of Construction Manager has the power, authority, and legal right to execute and deliver this Agreement on behalf of Construction Manager.

33.0 INDEMNIFICATION AND LIMITATION OF LIABILITY

33.1 The Construction Manager shall defend, indemnify, and hold harmless the City, its officers, employees, agents, and volunteers, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of Construction Manager and other persons employed or utilized by Construction Manager in the performance of this Agreement and all Contract Documents.

The Construction Manager specifically assumes potential liability for actions brought by Construction Manager's own employees against the City and, solely for the purpose of this indemnification and defense, Construction Manager 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 indemnity provisions set forth in this Section shall survive termination of this Agreement.

33.2 For other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Construction Manager expresses its willingness to enter into this Agreement with the knowledge that Construction Manager's recovery from the City to any action or claim arising from the Agreement is limited to a maximum amount of the sum of any Agreement amount that is owed by the City for Services actually performed by Construction Manager to the City's complete satisfaction, and in no case shall exceed the amount provided in Section 31.1 herein. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended either to be a waiver of the limitation placed upon the City's liability as set forth in Section 768.28 Florida Statutes, or to extend the City's liability beyond the limits established in said Section 768.28 Florida Statutes; and no claim or award against the City shall include attorney's fees, investigative costs, expert fees, suit costs, or pre-judgment interest.

33.3 PURSUANT TO SECTION 558.0035, FLORIDA STATUTES, AN INDIVIDUAL EMPLOYEE OR AGENT OF THE CONSTRUCTION MANAGER MAY NOT BE HELD INDIVIDUALLY LIABLE FOR ECONOMIC DAMAGES RESULTING FROM NEGLIGENCE UNDER THIS AGREEMENT IF THE CONDITIONS OF SECTION 558.0035 ARE SATISFIED.

34.0 BONDS

34.1 To the extent deemed necessary and required by the City, Construction Manager shall supply a materials, performance, and payment bond(s) in an amount specified in the Contract Documents for any Assigned Project, in a form approved by the City Attorney and in accordance with Florida law.

34.2 The City will have the right, prior to commencement of any Assigned Project, to require the Construction Manager to furnish bond(s) covering its faithful performance of the Work and the payment of all obligations arising thereunder, in such forms as the City may prescribe and with such sureties as it may approve. Performance and payment bonds in compliance with Section 255.05 Florida Statutes will be required for the Assigned Projects. The premium for such bond shall be paid by the Construction Manager.

35.0 ADDITIONAL ASSURANCES

35.1 The Construction Manager for itself and its Subcontractors, if any, certifies that:

a. No principal (which includes officers, directors, or executives) 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 architecture, landscape architecture, engineering, or surveying activity by any Federal, State, or local governmental commission, department, corporation, subdivision, or agency;

b. No principal (which includes officers, directors, or executives) or 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 City; and;

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

d. The undersigned is authorized to execute this Agreement on behalf of Construction Manager and said signature shall bind Construction Manager to this Agreement. No further action is required by Construction Manager to enter into this Agreement other than Construction Manager's undersigned representative's execution of the Agreement.

IN WITNESS WHEREOF, the parties hereto caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

CITY:
CITY OF COCOA

By: _____

Print Name: John A. Titkanich, Jr.

Title: City Manager

Date: 1/10/19

ATTEST:

By: _____
Carie Sheely, City Clerk

CONSTRUCTION MANAGER:
WHARTON-SMITH, INC.

By: _____

Print Name: Ronald F. Davoli

Title: President/CEO

Date: 1/3/19

By: _____

Print Name: Devon A. Lewis
Corporate Secretary

Office of the City Clerk
65 Stone Street I Cocoa, FL 32922
Phone: (321) 433-8480 I Fax: (321) 433-8455

January 11, 2019

Wharton-Smith, Inc.
750 Monroe Road
Sanford, FL 32771

Re: Master Services Agreement Construction Manager at Risk (CMAR) Services for Specified Water and Wastewater System Projects

To Whom It May Concern:

Enclosed, for your records, is a fully executed and certified copy of the above referenced agreement.

If you have any questions or need further assistance, please contact my office at (321) 433-8484 or by email at cshealy@cocoafl.org.

Sincerely,

Carie E. Shealy, MAA, MMC
City Clerk

Finance Department
Purchasing Division
65 Stone Street I Cocoa, FL 32922
Phone: (321) 433-8775 I Fax: (321) 433-8860

City of Cocoa
AMENDMENT TO MASTER SERVICES AGREEMENT
1st AMENDMENT
GARNEY COMPANIES, INC.
CONSTRUCTION MANAGER AT RISK (CMAR) SERVICES
FOR SPECIFIED WATER AND WASTEWATER SYSTEM PROJECTS
RFQ-19-04-COC

This First Amendment to the Master Services Agreement for Construction Manager at Risk Services dated January 4, 2019 by and between The City of Cocoa and Garney Companies, Inc. is made and effective as of the date of the last signature below.

The Influent Pump Station (IPS) Rehabilitation Project is added to the scope of possible projects in Section 3.1 for Wastewater Projects.

All other terms, conditions, provisions, and scope of services remain unchanged. By signing below, each party indicates its approval of this Amendment.

Garney Companies, Inc.	**CITY OF COCOA**
By: Scott J Reuter	**By:**
(Print Name)	(Print Name)
Director	
(Title)	(Title)
Signature / Date	Signature / Date

CC: Carie Shealy, City Clerk
Brian Dale, Purchasing / Contracts Division Manager
Jack Walsh, Director, Utilites

Finance Department
Purchasing Division
65 Stone Street I Cocoa, FL 32922
Phone: (321) 433-8775 I Fax: (321) 433-8860

City of Cocoa
AMENDMENT TO MASTER SERVICES AGREEMENT
1st AMENDMENT
PETTICOAT-SCHMITT CIVIL CONTRACTORS, INC.
CONSTRUCTION MANAGER AT RISK (CMAR) SERVICES
FOR SPECIFIED WATER AND WASTEWATER SYSTEM PROJECTS
RFQ-19-04-COC

This First Amendment to the Master Services Agreement for Construction Manager at Risk Services dated December 18, 2018 by and between The City of Cocoa and Petticoat-Schmitt Civil Contractors, Inc. is made and effective as of the date of the last signature below.

The Influent Pump Station (IPS) Rehabilitation Project is added to the scope of possible projects in Section 3.1 for Wastewater Projects.

All other terms, conditions, provisions, and scope of services remain unchanged. By signing below, each party indicates its approval of this Amendment.

Petticoat-Schmitt Civil Contractors, Inc.	**CITY OF COCOA**
By: Scott J Reuter	**By:**
(Print Name)	(Print Name)
Director	
(Title)	(Title)
Signature / Date	Signature / Date

CC: Carie Shealy, City Clerk
Brian Dale, Purchasing / Contracts Division Manager
Jack Walsh, Director, Utilites

Finance Department
Purchasing Division
65 Stone Street I Cocoa, FL 32922
Phone: (321) 433-8775 I Fax: (321) 433-8860

City of Cocoa
AMENDMENT TO MASTER SERVICES AGREEMENT
3rd AMENDMENT
WHARTON-SMITH, INC.
CONSTRUCTION MANAGER AT RISK (CMAR) SERVICES
FOR SPECIFIED WATER AND WASTEWATER SYSTEM PROJECTS
RFQ-19-04-COC

This Third Amendment to the Master Services Agreement for Construction Manager at Risk Services dated January 10, 2019 by and between The City of Cocoa and Wharton-Smith, Inc. is made and effective as of the date of the last signature below.

The Influent Pump Station (IPS) Rehabilitation Project is added to the scope of possible projects in Section 3.1 for Wastewater Projects.

All other terms, conditions, provisions, and scope of services remain unchanged. By signing below, each party indicates its approval of this Amendment.

Wharton-Smith, Inc.	**CITY OF COCOA**
By: Patrick J Hewitt	**By:**
(Print Name)	(Print Name)
Chief Operating Officer- Water	
(Title)	(Title)
P. J. Hewitt 8-9-22	
Signature / Date	Signature / Date

CC: Carie Shealy, City Clerk
Brian Dale, Purchasing / Contracts Division Manager
Jack Walsh, Director, Utilites

Legislation Details (With Text)

File #:	22-477	**Version:**	1	**Name:**	
Type:	Contract			**Status:**	Consent Agenda
File created:	8/9/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Approve policy for Workers' Compensation Specific Excess Insurance with Safety National Casualty Corporation for the period of October 1, 2022 through September 30, 2023, with an estimated annual premium of $228,755, pending approval of the FY2023 budget. (Administrative Services Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	City of Cocoa FY23 WC Excess Quote.pdf City of Cocoa WC Excess Policy History.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 9, 2022
Agenda Date: August 23, 2022
Prepared By: Tammy B. Gemmati, Administrative Services Director
Through: Stockton Whitten, City Manager
Requested Action:
Approve policy for Workers' Compensation Specific Excess Insurance with Safety National Casualty Corporation for the period of October 1, 2022 through September 30, 2023, with an estimated annual premium of $228,755, pending approval of the FY2023 budget.

BACKGROUND:

The City has been insured for our excess Workers' Compensation coverage with Safety National Casualty Corporation through Re-Ex Insurance Brokers, LLC since October 1, 2011. The current policy expires September 30, 2022. Excess coverage is designed to protect our City from "unexpected" high-cost Workers' Compensation claims. The current policy includes "statutory" limits (unlimited), specific retention of $600,000, and a rate of $0.7950 per $100 of payroll. The City is self-insured up to the specific retention amount on all claims. Once a claim reaches this threshold, the claim is paid by the excess carrier.

Re-Ex solicited quotes with multiple carriers for policy renewals with the goal to maintain or reduce the specific retention amount lower than $600,000. The majority of the solicited carriers have a higher minimum retention, which would be a higher risk to the City. Many carriers decline to bid due to the higher risks associated with police and fire personnel. The lowest bidder was again Safety National who presented a renewal option of $600,000 retention with the rate of $0.8175 per $100 of payroll. This represents a 2.83% increase versus the $0.7950 rate from the previous year. This rate

increase can be contributed to the City's large payroll increase for Fiscal Year 2022. Other quotes received were much higher with a higher claim retention rate of $750,000. Staff recommends this renewal with the $600,000 because for the small premium increase, it is worth the benefit of the lower retention for the lower risk.

The attachment provides details of the Excess Workers' Compensation proposals presented by Re-Ex Insurance Brokers. This is an estimate of premium based on payroll estimates. An audit is done at the end of the fiscal year once payroll numbers are final and then the premium is trued up.

The City's FY 2022 excess renewal was completed with an estimated payroll number prior to the City's wage increases being finalized. Therefore, the payroll estimate that was used in the agenda item approval for an estimated premium of $188,626 was lower than the actual premium that is now anticipated at the year end. Therefore, after the current fiscal year is completed, we anticipate paying additional premium to the carrier once the payroll audit is conducted.

STRATEGIC PLAN CONNECTION:

Renewal of the policy through Safety National will provide Financial Stability to our self-insured Workers' Compensation fund, and will allow the City to control expenses.

BUDGETARY IMPACT:

Budgeted	Yes
Amount Requested	$228,755
Account Number	520-1801-513.31-00
Account Name	Professional Services

Additional premium will be due for FY2022 WC Excess policy once payroll audit is completed.

Pending approval of the FY2023 budget.

PREVIOUS ACTION:

The City Council, at its August 24, 2021 meeting, approved a revised policy renewal with Safety National Casualty Corporation for the period of October 1, 2021 through September 30, 2022.

RECOMMENDED MOTION:

Approve policy for Workers' Compensation Specific Excess Insurance with Safety National Casualty Corporation for the period of October 1, 2022 through September 30, 2023, with an estimated premium of $228,755, pending approval of the FY2023 budget.

CITY OF COCOA
EXCESS WORKERS' COMPENSATION QUOTE
8/9/2022

	Current Program with Updated Payrolls	Renewal Option
Estimated Annual Total Payroll	**$27,982,267**	**$27,982,267**
Estimated Annual Manual Premium	$738,015	$738,015
Policy Term	1 year	1 year
Specific Retention	**$600,000**	**$600,000**
Specific Limit W.C.	Statutory	Statutory
E.L.	$1,000,000	$1,000,000
Rate (per $100 of Payroll)	**0.7950**	**0.8175**
Annual Policy Premium	**222,459**	**228,755**
Minimum Policy Premium	$200,213	$205,880
Carrier	Safety National Casualty Corporation	Safety National Casualty Corporation
Carrier's A.M. Best Rating	**A++, XV**	**A++, XV**

Current policy included $23,726,836 and generated a premium of $188,628.

Notes

1. Renewal option from Safety National includes the same limits and SIR as expiring at a 2.8% rate increase.
2. Safety National policyholders receive complimentary access to MAP Client Services® - a suite of online resources designed to support or enhance risk control efforts. Users can benefit from a wide range of safety, ergonomic and other risk management content through an extensive safety resource library, claims management and return-to-work tools. See attached descriptions.

Other Markets:

1. **Midwest** declined to quote. The lowest SIR available would be $750,000.
2. **Arch** declined to quote due to the $2,000,000/$1,000,000 SIR minimum on all municipalities in Florida.
3. **Star** was not approached due to no interest in the account.
4. **Travelers** was not approached due to the City's TPA not being a nationally approved TPA.
5. **ACE** was not approached due to their minimum SIR for police and fire being $1,000,000.



City of Cocoa Historical Policy/Premium Information

Policy Period	Policy Number	Self Insured Retention	Specific Limits	Employers Liability Limits	Carrier	Total Audited Payroll	Rate (per $100 of Payroll)	Excess Premium	Rate Increase/ Decrease
10/1/02-03	647716	500,000	25,000,000	1,000,000	ERC	14,590,622	0.2111	30,801	
10/1/03-04	EWC005156	750,000	25,000,000	1,000,000	Midwest	15,895,665	0.6188	98,362	193.13%
10/1/04-05	EWC005156	750,000	25,000,000	1,000,000	Midwest	14,963,260	0.6962	104,174	12.51%
10/1/05-06	W-128589847	750,000	Statutory	1,000,000	C N A	15,555,730	0.6005	93,412	-13.75%
10/1/06-07	EWC007751	750,000	Statutory	1,000,000	Midwest	17,151,253	0.6005	102,993	0.00%
10/1/07-08	EWC007751	750,000	Statutory	1,000,000	Midwest	17,842,698	0.5825	103,934	-3.00%
10/1/08-09	EWC007751	600,000	Statutory	1,000,000	Midwest	18,974,582	0.6433	122,063	10.44%
10/1/09-10	EWC007751	500,000	Statutory	1,000,000	Midwest	19,645,764	0.6666	130,959	3.62%
10/1/10-11	EWC007751	500,000	Statutory	1,000,000	Midwest	18,577,561	0.6666	123,838	0.00%
10/1/11-12	SP4044872	500,000	Statutory	1,000,000	Safety	17,438,529	0.5916	103,168	-11.25%
10/1/12-13	SP4047185	500,000	Statutory	1,000,000	Safety	17,785,345	0.7779	138,352	31.49%
10/1/13-14	SP4049577	650,000	Statutory	1,000,000	Safety	17,166,172	0.6305	108,233	-18.95%
10/1/14-15	SP4051748	650,000	Statutory	1,000,000	Safety	19,623,941	0.6305	123,729	0.00%
10/1/15-16	SP4053844	650,000	Statutory	1,000,000	Safety	19,244,277	0.6309	121,412	0.06%
10/1/16-17	SP4055634	650,000	Statutory	1,000,000	Safety	19,244,277	0.6240	120,084	-1.09%
10/1/17-18	SP4057682	650,000	Statutory	1,000,000	Safety	20,972,040	0.6240	130,866	0.00%
10/1/18-19	SP4057682	650,000	Statutory	1,000,000	Safety	21,902,558	0.6240	136,672	0.00%
10/1/19-20	SP4061291	600,000	Statutory	1,000,000	Safety	*22,203,230*	0.6567	145,809	5.24%
10/1/20-21	SP4061291	600,000	Statutory	1,000,000	Safety	23,633,335	0.7512	177,534	14.39%
10/1/21-22*	SP4065525	600,000	Statutory	1,000,000	Safety	*23,726,836*	0.7950	188,628	5.83%
10/1/22-23*	TBD	600,000	Statutory	1,000,000	Safety	*27,982,267*	0.8175	228,755	2.83%

**Italicized payroll figures are estimates - not yet audited.*

FORTINET

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INTERNAL GRANT APPLICATION FORM

Completed and Signed Copy of this Form **Must Be Attached** to all Grant Agenda Items

DEPARTMENT: Public Works	**DIVISION:** 3570 Stormwater
POINT OF CONTACT: Bryant Smith	**PROJECT MANAGER:** Abby Morgan
NAME OF GRANT: FDEP Resilient Florida Grant - Dixon Blvd. at Indian River Drive Water Quality and Resiliency Project	
Assistance Listing#/CFSA#: 37.908	**FUNDING AGENCY:** FDEP
AMOUNT REQUESTED: $ 1,750,000	**GRANT DUE DATE:** 09/01/2022

PROJECT DESCRIPTION:

Dixon Blvd. at Indian River Drive Water Quality and Resiliency Project - This project will provide stormwater treatment and resiliency at Dixon and Indian River Drive (IRD). The project will 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 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. This should provide treatment to two or more direct outfalls, out of the over 65 within the City of Cocoa, to the Indian River. This project helps to address four of the CCMP Vitals, which are listed in the table above. 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 is currently underway. The requested FDEP Resilient Florida Grant funding within this proposal is for the Implementation (construction) part of the project in FY 23-24.

MATCH REQUIRED: Yes	**TARGET DATE TO COUNCIL:**
(IF YES, HOW MUCH :) $ 1,750,000	08/23/2022
REIMBURSEMENT GRANT: Yes	**REIMBURSEMENT SCHEDULE:** Completion of Construction

WHAT ARE THE REPORTING REQUIREMENTS?

Reporting requirements to be detailed in description of award contract.

FUTURE REQUIREMENTS TO CONSIDER:

N/A

_____ Department Director

_____ Grants Administrator

_____ Deputy Finance Director

_____ Finance Director

_____ City Manager

Legislation Details (With Text)

File #:	22-492	**Version:**	1	**Name:**	
Type:	Contract			**Status:**	Consent Agenda
File created:	8/12/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	To Award Bid B-22-14-COC, Filter Belt Press Programmable Logic Control (PLC) Upgrades (Project WS17FC) to C.C. Control Corporation of West Palm Beach, FL, in the Amount of $142,700; Approve a Contingency Resolution Authorizing the City Manager to Approve Change Orders in an Amount Not to Exceed $21,405 (15% of the contract amount), for a Total Project Cost of $164,105; To Authorize the City Manager to Execute the Contract. (Utilities Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	B-22-14-COC PLC Upgrade ITB 7-27-2022.pdf SW PLC Bid Tab.pdf Notification of Intent to Award.pdf COI.pdf E-Verify.pdf W9.pdf Agenda 22-492 Contingecy Resolution 2022-XXX.pdf B-22-14-COC Construction Contract Partially Executed.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 1, 2022
Agenda Date: August 23, 2022
Prepared By: Sean B. McFarland, Water Treatment Manager
Through: John A. Walsh, P.E., Utilities Director

Requested Action:
To Award Bid B-22-14-COC, Filter Belt Press Programmable Logic Control (PLC) Upgrades (Project WS17FC) to C.C. Control Corporation of West Palm Beach, FL, in the Amount of $142,700; Approve a Contingency Resolution Authorizing the City Manager to Approve Change Orders in an Amount Not to Exceed $21,405 (15% of the contract amount), for a Total Project Cost of $164,105; To Authorize the City Manager to Execute the Contract.

BACKGROUND:

The Dyal WTP Operates a 12 MGD Surface Water Plant that uses a belt press system to dry the sludge product that is created via the treatment process. The existing PLC system (and associated equipment) that controls the belt press system has been on line for ~20 years, and is at the end of its

useful life thus requiring a replacement. The current Siemens PLCs are no longer supported by the manufacturer and must be replaced with newer Siemens PLCs to maintain proper and efficient operations. The Dyal WTP has standardized Siemens PLC's for ease of software communications between all potable water treatment equipment.

The City of Cocoa's Purchasing Department advertised Bid #B-22-14-COC on Vendorlink to solicit contractors, concerning the PLC upgrades, the Dyal WTP was requesting. Two bids were received, they are as follows:

Company Name	Date Received	Bid/Proposal Amount
Enercon Services Inc	6/29/2022	$248,190.00
CC Control Corp	6/28/2022	$142,700.00

Number of Plan Holders (Downloaded bid): 38

Number of Notifications sent: 88

The apparent low bidder was C.C. Control Corporation of West Palm Beach, FL, who submitted the lowest and best quote in the amount of $142,700.

City staff is also requesting that City Council approve an additional $21,405 as a contingency for the project. The additional amount is 15% 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 required, the additional amount will allow the project to continue to move forward. The additional $21,405 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.

Staff recommends awarding ITB B-22-14-COC, Dyal WTP Proposed Filter-Belt Press Programmable Logic Control (PLC) Upgrade, to C.C. Control Corporation of West Palm Beach, FL.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

Budgeted	Yes
If not budgeted, is amendment/transfer attached?	N/A
Amount Requested	$164,105.00 (with contingency)
Account Number	421-4020-536.63-00 (WS17FC)
Account Name	Water & Sewer Infrastructure
Source of Funds:	Operating Revenue

PREVIOUS ACTION:

N/A.

RECOMMENDED MOTION:

To Award Bid B-22-14-COC, Filter Belt Press Programmable Logic Control (PLC) Upgrades (Project WS17FC) to C.C. Control Corporation of West Palm Beach, FL, in the Amount of $142,700; Approve a Contingency Resolution Authorizing the City Manager to Approve Change Orders in an Amount Not to Exceed $21,405 (15% of the contract amount), for a Total Project Cost of $164,105; To Authorize the City Manager to Execute the Contract.

powered by Legistar™

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8486, or extension 8844 | Fax: 321-433-8690	**Solicitation Number: ITB B-22-14-COC**
	INVITATION TO BID (ITB)	**Due Date: June 15, 2022**
TITLE:	**Filter Belt Press Programmable Logic Control (PLC) Upgrades**	

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 upgrade the Filter Belt System Supplier (FBSS). The selected vendor shall provide a complete turn-key upgrade to the Program Logic Control (PLC) processors, including OIT monitors, control cabinet electrical components, design services, submittal services, programming, testing, and full commissioning for a complete remotely operated system.

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 on **Wednesday May 18, 2022,** at **10:00AM EST** at the Dyal WTP located at 28400 FL-520, Christmas, FL 32709. 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 May 25, 2022, at 5:00PM.** 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.org 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.org. 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 whose physical business address is within the 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.

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8486, or extension 8844 | Fax: 321-433-8690	**Solicitation Number: ITB B-22-14-COC**
	INVITATION TO BID (ITB)	**Due Date: June 15, 2022**
TITLE:	**Filter Belt Press Programmable Logic Control (PLC) Upgrades**	

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: 321-433-8486, or extension 8844 | Fax: 321-433-8690	Solicitation Number: ITB B-22-14-COC
	INVITATION TO BID (ITB)	Due Date: June 15, 2022

TITLE: Filter Belt Press Programmable Logic Control (PLC) Upgrades

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SECTION 1 INTRODUCTION

1.01 DESCRIPTION OF WORK

The Dyal WTP Operates a 12 MGD Surface Water Plant that uses a belt press system to dry the sludge product that is created via the treatment process. The existing PLC system and associated equipment that controls the belt press system is at the end of its useful life and needs a replacement/upgrade.

The Filter Belt System Supplier (FBSS) shall provide a complete turn-key upgrade to the PLC processors, OIT monitors, control cabinet electrical components, design services, submittal services, programming, testing, and full commissioning for a complete remotely operated system.
Work includes:

- Replace (2) TI-545 PLCs, panels and associated PLC hardware controlling two individual filter belts, as follows;
    - Supply 2 New PLCs, one for each filter press
    - Replace 2 Existing control panels, with 2 new panels, properly sized to fit into the replaced panel locations
    - Each panel will be independent panel containing all required devices to operate a single filter belt. A fault on one filter belt shall not impact the other filter belt.
    - An Operator Interface Terminal (OIT) located on each panel which allows display and control of both filter belts. OIT primary function will be process display, alarming and limited trending.
    - Include new fiber optic transceivers, communication modules, PLC processors, PLC I/O modules, PLC power supplies, analog panel power supplies, new UPS, OIT panel interface, new lights and switches, and new Ethernet cable, new conduit as needed, and spares.
    - Furnish and install a fiber optic link between PCP5 and the filter presses.
    - Additionally, hardware controls on each panel will match the existing panel hardware controls in function, i.e., start/stop buttons, select switches, analog displays, and all other inputs and outputs required to operate each filter belt in the event the OIT faults.
- Install/modify conduit and network communication cables as required to create connection to the plant network.
- Provide documented programming for PLCs and OITs.
- Provide updated as built panel drawings at the completion of the upgrade.
- This work will be performed in an operating facility and the work sequence will be coordinated with the OWNER. Sequencing to include;
    - Only one panel is to be replaced at a time. The second panel will not be impacted until the first panel is fully tested and operational.
- Provide/install all required panel components found in the existing panel to achieve a fully functioning, upgraded system.
- OWNER currently utilizes SIEMENS TIA Portal software for maintenance of the plant SCADA system. Coordinate with OWNER for controller and OIT platform software support once the system is

operational. Provide required fully licensed PLC and OIT software packages, as required, for OWNER to fully support the field installed package.

Task 1 Design Services

Design and provide detailed hardware model numbers based on the selected PLC (Siemens S7-1511 PN preferred) and maintain the existing fiber optic link communications Ethernet communications link and plant PLC hardwire links.

- Provide scale panel layout drawings indicating dimensions and locations of panel mounted devices, both internal and external.
- Provide a Bill of materials for the replacement of panels and components for Filter Belt panels 1 and 2. Provide each panel BOM in separate lists.
- Construction Details: NEMA rating, materials, material thickness, structural stiffeners and brackets, lifting lugs, mounting brackets and tabs, door hinges and latches, and welding and other connection callouts and details.
- Construction Notes: Finishes, wire color schemes, wire ratings, wire, terminal block numbering, and labeling scheme.
- Panel Power Requirement: For control panels tabulate and summarize:
    - Required voltages, currents, and phases(s).
    - Maximum heat dissipations Btu per hour.
    - Calculations.
- Provide heat load calculations showing the panel estimated internal steady state temperature for ambient air temperature.
- Detailed drawings showing interconnecting wiring. Cover wiring within a panel including, but not limited to, instrumentation, control, power, and communications, and digital networks.
- Verify new panels can properly be inserted into the existing panel locations
- Verify all current field wiring connections and design panels for field wiring terminal strips to match location of existing field wiring terminal strips, such that field wiring will not require splicing.
- Include a list of recommended spare parts for the system.

Deliverables:

Provide all drawing deliverables in both pdf and AutoCAD file types.

- Bill of Materials.
- Provide scale panel drawings
- Provide panel construction details
- Design drawings as required showing electrical modifications (conduits/cabling/etc.).
- Updated I/O list indicating point type, connection to PLC I/O cards and instrument span as appropriate.
- List of recommended spare parts

Task 2 Submittal Process

Include submittal process for review/approval:

1. All engineering drawings and equipment cut sheets.
2. Documented copies of the controller code in PDF format
3. Screen shots of the OIT displays

Develop and submit a schedule for execution of the upgrade including any required downtime needed

Deliverables

- Engineering drawings
- Equipment cut sheets

Task 3 Programming Services

Perform PLC programming as needed for the new PLCs. Perform OIT programming as needed for display and control. Each OIT will be identical and capable of displaying/controlling both Filter Belts. Existing main plant graphics are limited to the plant-controlled equipment. Filter belt equipment will not be displayed on the plant HMI system at this time.

- Vendor will identify specific information required from the plant PLC system for proper control and interlock system. Refer to Appendix I for current specific information.
- Vendor will provide fully documented programs to OWNER. Documentation will include fully annotated control code, variable descriptions including documentation for modular programmed built components such as function blocks or function calls.
- Vendor will provide PLC and FPSS support on the complete filter press supplied system for troubleshooting and PLC logic changes.
- Vendor programmer and field staff shall have factory training for PLC used in this project.
- Vendor programmer and field staff shall have worked on three similar filter press projects.

Include up to 2 meetings with the Cocoa Automation provider (Jacobs) for coordination of the Interface list and startup coordination.

Deliverables:

- Updated I/O interface list as previously specified
- Copy of final documented PLC programs, in PDF and PLC loadable binaries
- Copy of final documented OIT programs, in OIT loadable binaries

Task 4 Testing and Field Services

Include a factory acceptance test (FAT) of the new PLC panels prior to shipment to field.

- Determinate existing field signal wiring, power wiring and networking connections. Label for re-termination in new panel.

- Install new panel, including required conduit and proper sealing of panel.
- Connect field wiring, power wiring and network connections.

Remove existing panels. Reserve panels for Owner
Install new panels.

- Perform field Operation Readiness Testing ORT1, ORT2, and Performance Acceptance Testing (PAT) testing of FPSS system and interface testing with main plant HMI system.

Deliverables:

- Updated final O&M Manual
- Updated signed off ORT1, ORT2, PAT testing forms
- Updated as-build drawings
- Required PLC and OIT licensed support packages, as needed

1.02 MINIUM 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. Please prepare a cover letter for your response to this invitation with a description of your business, the types of services your company provides, and include the primary contact's name, telephone and email address.
2. The firm shall have been in business for a minimum of three (3) consecutive years or demonstrate with written documentation that they had ownership in a firm with combined experience of three (3) years. 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.
3. All respondents shall submit up to three (3) references summarizing projects involving similar services to those described herein within the last sixty (60) months. Each reference shall include the name and address of Owner, contact name, location of services, dates of services, size of Respondent project team, and a brief description of work satisfactorily completed. Referenced projects shall provide verification of experience with **installations and upgrades of belt filter press control systems including design, programming, construction, testing, and implementation**. Use 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.
9. Attendance at the Pre-Bid Conference is required.

Financial Capacity - The Bidder may be required to provide financial performance information upon request by the City. The financial information must be received by the City within five (5) Days of Bidder receiving the written request. Submittals requested pursuant to this subsection may be in addition to those required elsewhere.

1.03 PROJECT COMPLETION TIME

The successful bidder shall commence work within Twenty (20) 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 Two Hundred and Forty (240) days after the notice to proceed. Final completion will be within Thirty (30) days of substantial completion. The City may allow for an extension due to verifiable, and unforeseen lead times on related equipment.

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

Tentative Schedule (all Local Times)	
Task	**Date**
ITB Released	**Friday, May 6, 2022 at 8:00am EST**
Mandatory Pre-Bid Conference	**Wednesday, May 18, 2022 at 10:00am EST (Will be held at the Dyal WTP)**
Deadline for Questions	**Wednesday, May 25, 2022 at 5:00pm EST**
Bid Due Date and Time	**Wednesday, June 15, 2022 at 3:00pm EST**
Anticipated Notice of Intent to Award	**June 29, 2022**
City Council Approval of Contract	**July 5, 2022**

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, Ext. 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 May 18., 2022 at 10:00 AM EST at Dyal WTP located at 28400 FL-520, Christmas, FL 32709 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, Ext. 8833
Email: purchasing@cocoafl.org

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 (407) 262-7700, 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 Thursday between 7:00 A.M. to 6:00 P.M., Local Time via phone at (321) 433-8833, Ext. 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 – Not used

~~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 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.org**, 65 Stone Street , COCOA, FLORIDA 32922.**

4.17 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.

4.18 PROMPT PAYMENT ACT

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

4.19 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.

4.20 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.

4.21 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.

4.22 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.

4.23 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.

4.24 PURCHASING AGREEMENTS WITH OTHER GOVERNMNETAL 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.

4.25 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.

4.26 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.

4.27 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.

4.28 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.

4.29 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.

4.30 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.

4.31 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.

4.32 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.

4.33 NEW PRODUCT

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

4.34 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.

4.35 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.

4.36 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.

4.37 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.

4.38 ADDITIONAL INFORMATION

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

4.39 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.

4.40 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.

4.41 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.

4.42 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.

4.43 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.

4.44 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.

4.45 SPLIT AWARD – NOT APPLICABLE

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.

4.46 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.

4.47 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.org for results.

4.48 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".

4.49 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.

4.50 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.

4.51 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.

4.52 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.

4.53 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.

4.54 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.

4.55 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.

4.56 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.

4.57 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.

4.58 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.

4.59 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.

4.60 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.

4.61 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.

4.62 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.

4.63 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.

4.64 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.

4.65 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.

4.66 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.

4.67 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.

4.68 ATTACHMENTS AND EXHIBITS

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

4.69 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.

4.70 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.

4.71 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*;

I f 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: 321-433-8486, or extension 8844 | Fax: 321-433-8690	Solicitation Number: ITB B-22-14-COC
	INVITATION TO BID (ITB)	Due Date: June 15, 2022
TITLE:	**Filter Belt Press Programmable Logic Control (PLC) Upgrades**	

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: 321-433-8486, or extension 8844 | Fax: 321-433-8690	**Solicitation Number: ITB B-22-14-COC**
	INVITATION TO BID (ITB)	**Due Date: June 15, 2022**
TITLE:	**Filter Belt Press Programmable Logic Control (PLC) Upgrades**	

_____
AFFIANT SIGNATURE

_____
Typed Name of AFFIANT

_____
Title

The foregoing instrument was executed before me this ____ day of _____, 2021, 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: 321-433-8486, or extension 8844 | Fax: 321-433-8690	Solicitation Number: ITB B-22-14-COC
	INVITATION TO BID (ITB)	Due Date: June 15, 2022
TITLE:	**Filter Belt Press Programmable Logic Control (PLC) 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"** Not Used~~

~~**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~~

TITLE: Filter Belt Press Programmable Logic Control (PLC) 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~~

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8486, or extension 8844 | Fax: 321-433-8690	Solicitation Number: ITB B-22-14-COC
	INVITATION TO BID (ITB)	Due Date: June 15, 2022
TITLE:	Filter Belt Press Programmable Logic Control (PLC) Upgrades	

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

Instructions: The total bid price must be equal to the sum of the values in the bid breakdown. Enter the occupational titles required in the first row e.g Project Manager, Instrumentation and Control Engineer, Journeyman Electrician, Electrical Designer Etc., with the corresponding hourly rate. Enter the hours per title per task and the sum of the hours and total costs in the Labor Cost table. If more columns are required list "other" as the last column and provide an attachment with the additional 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.

Labor Cost

		Occupational Title						
	Hourly Rate	$	$	$	$	$		
Task	Task Name	Hours					Total Hours	Costs
1	Design Services							$
2	Submittal Process							$
3	Programming Services							$
4	Testing and Field Services							$
						Sub Total		$

Equipment

Equipment	QTY	Unit Price	Total
Belt Filter Press Control Panel - New panel sized to fit in existing location with new PLC and containing all required devices to operate the belt filter press and as listed in the scope.	2	$	$
Installation materials required to connect new panels to PCP5, including all wiring and hardware as defined in the scope	Lump Sum	$	$
		Sub Total	$

Total $

(Attachment "E" continued)

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 _____, 2019, 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: 321-433-8486, or extension 8844 | Fax: 321-433-8690	Solicitation Number: ITB B-22-14-COC
	INVITATION TO BID (ITB)	Due Date: June 15, 2022
TITLE:	**Filter Belt Press Programmable Logic Control (PLC) 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: _____ 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 "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

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8486, or extension 8844 | Fax: 321-433-8690	**Solicitation Number: ITB B-22-14-COC**
	INVITATION TO BID (ITB)	**Due Date: June 15, 2022**
TITLE:	**Filter Belt Press Programmable Logic Control (PLC) Upgrades**	

STATE OF _____
COUNTY OF _____

The foregoing instrument was executed before me this ____ day of _____, 2019, 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☜

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 _____, 2019, 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: 321-433-8486, or extension 8844 | Fax: 321-433-8690	**Solicitation Number: ITB B-22-14-COC**
	INVITATION TO BID (ITB)	**Due Date: June 15, 2022**
TITLE:	**Filter Belt Press Programmable Logic Control (PLC) 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: 321-433-8486, or extension 8844 | Fax: 321-433-8690	Solicitation Number: ITB B-22-14-COC
	INVITATION TO BID (ITB)	Due Date: June 15, 2022

TITLE: Filter Belt Press Programmable Logic Control (PLC) 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: 321-433-8486, or extension 8844 | Fax: 321-433-8690	**Solicitation Number: ITB B-22-14-COC**
	INVITATION TO BID (ITB)	**Due Date: June 15, 2022**
TITLE:	**Filter Belt Press Programmable Logic Control (PLC) 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 three (3) 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:				
Size of Project Team:				
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:				
Size of Project Team:				
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:				
Size of Project Team:				
Address:				
Contracting Agency/Client:				
Contact Name and Phone #:				
Contact Email Address and Fax #:				
Contract Amount:	Start Date:		End Date:	

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8486, or extension 8844 | Fax: 321-433-8690	Solicitation Number: ITB B-22-14-COC
	INVITATION TO BID (ITB)	Due Date: June 15, 2022
TITLE:	**Filter Belt Press Programmable Logic Control (PLC) 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 _____, 2019, 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: 321-433-8486, or extension 8844 | Fax: 321-433-8690	**Solicitation Number: ITB B-22-14-COC**
	INVITATION TO BID (ITB)	**Due Date: June 15, 2022**
TITLE:	**Filter Belt Press Programmable Logic Control (PLC) 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 B-22-14-COC**

TITLE: Filter Belt Press Programmable Logic Control (PLC) Upgrades

SOLICITATION DUE DATE: 06/15/2022 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: 321-433-8486, or extension 8844 | Fax: 321-433-8690	Solicitation Number: ITB B-22-14-COC
	INVITATION TO BID (ITB)	Due Date: June 15, 2022
TITLE:	**Filter Belt Press Programmable Logic Control (PLC) 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.

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 "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☜

APPENDIX 1

Hardwired communication points to plant control system

The following hardwired points link the filter presses to the pant control system through PCP 5. Vendor to verify information on points with OWNER as part of the project.
These points will be outputs from the Filter Press panels. These points will be inputs to the Plant PLC panel.

PLC/HMI Tag	Rack	Slot	Point	Type	Low Span	High Span	EU	Description
DSxHSxx11x3x1xAn1	0	3	3	DI				HS-11-3-1,STANDBY BELT FILTER PRESS BOOSTER PUMP REPLACE 1
DSxHSxx11x3x1xBn1	0	3	4	DI				HS-11-3-1,STANDBY BELT FILTER PRESS BOOSTER PUMP REPLACE 2
DSxLPxx11x5x1xAn1	0	3	5	DI				LP-11-5-1,BELT FILTER PRESS BOOSTER PUMP NO. 1 RUN REQUEST
DSxLPxx11x1xxxAn1	0	3	6	DI				LP-11-1,STANDBY BELT FILTER PRESS FEED PUMP REPLACE 1
DSxLPxx11x1xxxBn1	0	3	7	DI				LP-11-1,STANDBY BELT FILTER PRESS FEED PUMP REPLACE 2
DSxLPxx11x5x1xBn1	0	3	8	DI				LP-11-5-1,BELT FILTER PRESS FEED PUMP NO. 1 RUN REQUEST
DSxLPxx11x5x1xCn1	0	3	12	DI				LP-11-5-1,BELT FILTER PRESS POLYMER FEED PUMP NO. 1 REQUEST
DSxHSxx11x7xxxAn1	0	3	17	DI				HS-11-7,STANDBY BELT FILTER PRESS POLYMER REPLACE 1

DSxHSxx11x7xxxBn1	0	3	18	DI				HS-11-7,STANDBY BELT FILTER PRESS POLYMER REPLACE 2
DSxLPxx11x5x2xAn1	0	4	14	DI				LP-11-5-2,BELT FILTER PRESS BOOSTER PUMP NO. 2 REQUEST
DSxLPxx11x5x2xBn1	0	4	15	DI				LP-11-5-2,BELT FILTER PRESS FEED PUMP NO. 2 REQUEST
DSxLPxx11x5x2xCn1	0	5	0	DI				LP-11-5-2,BELT FILTER PRESS POLYMER FEED PUMP NO. 2 REQUEST
DSxPUxx11x1x1Axn1	1	2	4	AI	0	100	%	P-11-1-1,BELT FILTER PRESS 1 FEED PUMP LOCAL SPEED SET POINT (AT LP-11-5-1)
DSxPUxx11x7xxAxn1	1	2	6	AI	0	100	%	M-11-7-1,BELT FILTER PRESS 1 POLYMER FEED PUMP LOCAL SPEED SET POINT (AT LP-11-5-1)
DSxPUxx11x1x2Bxn1	1	3	0	AI	0	100	%	P-11-1-2,BELT FILTER PRESS 2 FEED PUMP LOCAL SPEED SET POINT (AT LP-11-5-2)
DSxPUxx11x7xxBxn1	1	3	2	AI	0	100	%	M-11-7-2,BELT FILTER PRESS 2 POLYMER FEED PUMP LOCAL SPEED SET POINT (AT LP-11-5-1)

These points will be outputs from the plant PLC panels. These points will be inputs to the Filter Press panels.

PLC Tag	Rack	Slot	Point	Type	Low Span	High Span	EU	Description
DSxLPxx11x5x2xDn1	0	7	5	DO				LP-11-5-2,BELT FILTER PRESS BOOSTER PUMP NO. 2 RUN INDICATOR
DSxLPxx11x5x2xEn1	0	7	6	DO				LP-11-5-2,BELT FILTER PRESS BOOSTER PUMP NO. 2 STOP INDICATOR

DSxLPxx11x5x2xFn1	0	7	7	DO				LP-11-5-2,BELT FILTER PRESS BOOSTER PUMP NO. 2 READY
DSxLPxx11x5x2xGn1	0	7	8	DO				LP-11-5-2,BELT FILTER PRESS FEED PUMP NO. 2 RUN INDICATOR
DSxLPxx11x5x2xHn1	0	7	9	DO				LP-11-5-2,BELT FILTER PRESS FEED PUMP NO. 2 STOP INDICATOR
DSxLPxx11x5x2xIn1	0	7	10	DO				LP-11-5-2,BELT FILTER PRESS FEED PUMP NO. 2 READY
DSxLPxx11x5x2xJn1	0	7	14	DO				LP-11-5-2,BELT FILTER PRESS POLYMER FEED PUMP NO. 2 RUN INDICATOR
DSxLPxx11x5x2xKn1	0	7	15	DO				LP-11-5-2,BELT FILTER PRESS POLYMER FEED PUMP NO. 2 STOP INDICATOR
DSxLPxx11x5x2xLn1	0	7	16	DO				LP-11-5-2,BELT FILTER PRESS POLYMER FEED PUMP NO. 2 READY

APPENDIX 2
Acronyms/Definitions

- **FAT** -Factory Acceptance Test – Witnessed test performed at the vendors shop to confirm proper construction of the panel. Components and wiring are tested to confirm proper wiring and operation.
- **ORT 1** - Operational Readiness Test 1, Unwitnessed test performed by the contractor, documented, and signed off indicating the systems is complete and ready for other vendors and trades to perform ORT 2.
- **ORT 2** - Operational Readiness Test 2, Witnessed test performed by the Contractor, I& C Contractor, Engineer and Owner to test by cause and effect from field instrumentation and devices through to the PLC and Graphics.
- **O&M Manual** – Operations and Maintenance Manual.
- **PAT** – Performance Acceptance Test – Test which test the functionality of the controls against the control narratives/O&M manual to confirm the system performs as detailed in the narratives/O&M manual.

CITY OF COCOA
TABULATION SHEET

Filter Belt Press PLC Upgrade
ITB B-22-14-COC
ITB Final Tabulation: June 29, 2022

Note: The Tabulation Sheet is used to document the screening of bid / proposal pricing, material and immaterial contents. Results of the the tabulation are documented within this form DOES NOT constitute an award. After evaluations are recorded, recommendation is reviewed by City Council for final approval. Notice of award will be sent forth via email from the Purchasing and Contracts Division.

VENDOR	Base Bid	Total Accumulated Bid
Enercon Service Inc. 500 Townpark Lane Kennesaw, GA 30144	$ - 248,193.00	$ -
CC Control Corp. 5760 Corporate Way West Palm Beach, FL 33407	$ - 142,700.00	$ -
	$ -	$ -
	$ -	$ -

Purchasing
65 Stone Street • Cocoa, FL 32922
PHONE: (321) 433-8833
EMAIL: purchasing@cocoafl.org

NOTIFICATION OF INTENT TO AWARD

City of Cocoa Department and Division		
Department: Utilities	*Division:* Dyal WTP	*Project #:* WS-17-FC
Solicitation Details		
Bid / RFP / RFQ #: B-22-14-COC	*Title:* Director	
Vendor Information		
Awarded To: C.C. Control Corporation		*Contract Amount:* $142,700.00
Description of Work: Filter Belt System Supplier (FBSS) shall provide a complete turn-key upgrade to the PLC processors, OIT monitors, control cabinet electrical components, design services, submittal services, programming, testing, and full commissioning for a complete remotely operated system.		
City of Cocoa Finance Department Approval		
Purchasing Manager: Brian Dale	*Date Issued:* July 18, 2022	*Signature:*

Disclaimer: This Notice of Intent to Award is subject to a final award decision by the City Council or the City Manager (as applicable) and execution of a written contract with the City. This Notice does NOT constitute the formation of a contract between the City of Cocoa and the apparent successful vendor referenced in the Notice. The vendor shall not acquire any legal or equitable rights relative to the contract services until a contract containing terms and conditions acceptable to the City of Cocoa is executed. If the City Council or City Manager (as applicable) awards the contract to the apparent successful vendor, and the vendor fails to negotiate and execute a contract with the City of Cocoa, the City of Cocoa may revoke the award and award the contract to the next highest ranked vendor or withdraw the Bid. The City of Cocoa further reserves the right at its discretion to reject this Notice and award the contract to another vendor or reject all bids without penalty.

CCCONTR-01 KKENNEDY

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 6/21/2022

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 CAL Risk Management 23 Eganfuskee Street Suite 102 Jupiter, FL 33477	CONTACT NAME: Lori B. Gleason PHONE (A/C, No, Ext): (561) 776-9001 FAX (A/C, No): (561) 427-6730 E-MAIL ADDRESS: lgleason@calllc.com
INSURED C C Control Corp 5760 Corporate Way West Palm Beach, FL 33407	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Amerisure Insurance Co — 19488 INSURER B : Amerisure Mutual Ins Co — 23396 INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES CERTIFICATE NUMBER: 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 XCU & Contractual GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:	X	X	GL20193341801	3/22/2022	3/22/2023	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 $ 2,000,000 $ 2,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS HIRED AUTOS ONLY NON-OWNED AUTOS ONLY	X	X	CA20532751401	3/22/2022	3/22/2023	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) PIP Coverage	$ 1,000,000 $ $ $ $ 10,000
B	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 0			CU13181692302	3/22/2022	3/22/2023	EACH OCCURRENCE AGGREGATE	$ 5,000,000 $ 5,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	X	WC211695101	3/22/2022	3/22/2023	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)

Project: Filter Belt Press Programmable Logic Control (PLC) Upgrades Project Number ITB B-22-14-COC

Certificate holder is included as additional insured for both ongoing and completed operations for General Liability per form CG7048 on a primary & non-contributory basis, Auto Liability, and Umbrella Liability when required by written contract. Waiver of subrogation applies to General Liability, Auto Liability, Workers' Compensation, and Umbrella Liability when required by written contract. The umbrella coverage is excess over the general liability, automobile, and employers liability coverages. Cancellation: 30-days' notice of cancellation applies except 10-days for non-payment of premium per policy terms and conditions.

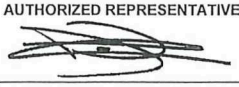
CERTIFICATE HOLDER

City of Cocoa
c/o Administrative Services Director
65 Stone Street
Cocoa, Florida 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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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONTRACTOR'S BLANKET ADDITIONAL INSURED ENDORSEMENT – FORM A

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Policy Number GL20193341801	**Agency Number** 0825355	**Policy Effective Date** 03/22/2022
Policy Expiration Date 03/22/2023	**Date** 03/09/2022	
Named Insured C C CONTROL CORPORATION	**Agency** CAL RISK MANAGEMENT	**Issuing Company** AMERISURE INSURANCE COMPANY

1. a. **SECTION II - WHO IS AN INSURED** is amended to add as an additional insured any person or organization:

   (1) Whom you are required to add as an additional insured on this policy under a written contract or written agreement relating to your business; or

   (2) Who is named as an additional insured under this policy on a certificate of insurance.

   b. The written contract, written agreement, or certificate of insurance must:

   (1) Require additional insured status for a time period during the term of this policy; and

   (2) Be executed prior to the "bodily injury", "property damage", or "personal and advertising injury" leading to a claim under this policy.

   c. If, however:

   (1) "Your work" began under a letter of intent or work order; and

   (2) The letter of intent or work order led to a written contract or written agreement within 30 days of beginning such work; and

   (3) Your customer's customary contracts require persons or organizations to be named as additional insureds;

   we will provide additional insured status as specified in this endorsement.

2. The insurance provided under this endorsement is limited as follows:

   a. That person or organization is an additional insured only with respect to liability caused, in whole or in part, by:

   (1) Premises you:

   (a) Own;

   (b) Rent;

   (c) Lease; or

   (d) Occupy;

   (2) Ongoing operations performed by you or on your behalf. Ongoing operations does not apply to "bodily injury" or "property damage" occurring after:

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(a) All work to be performed by you or on your behalf for the additional insured(s) at the site of the covered operations is complete, including related materials, parts or equipment (other than service, maintenance or repairs); or

(b) That portion of "your work" out of which the injury or damage arises is put to its intended use by any person or organization other than another contractor working for a principal as a part of the same project.

(3) Completed operations coverage, but only if:

(a) The written contract, written agreement, or certificate of insurance requires completed operations coverage or "your work" coverage; and

(b) This coverage part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

However, the insurance afforded to such additional insured only applies to the extent permitted by law.

b. If the written contract, written agreement, or certificate of insurance:

(1) Requires "arising out of" language; or

(2) Requires you to provide additional insured coverage to that person or organization by the use of either or both of the following:

(a) Additional Insured – Owners, Lessees or Contractors – Scheduled Person Or Organization endorsement CG 20 10 10 01; or

(b) Additional Insured – Owners, Lessees or Contractors – Completed Operations endorsement CG 20 37 10 01;

then the phrase "caused, in whole or in part, by" in paragraph **2.a.** above is replaced by "arising out of".

c. If the written contract, written agreement, or certificate of insurance requires you to provide additional insured coverage to that person or organization by the use of:

(1) Additional Insured – Owners, Lessees or Contractors – Scheduled Person Or Organization endorsement CG 20 10 07 04 or CG 20 10 04 13; or

(2) Additional Insured – Owners, Lessees or Contractors – Completed Operations endorsement CG 20 37 07 04 or CG 20 37 04 13; or

(3) Both those endorsements with either of those edition dates; or

(4) Either or both of the following:

(a) Additional Insured – Owners, Lessees or Contractors – Scheduled Person Or Organization endorsement CG 20 10 without an edition date specified; or

(b) Additional Insured – Owners, Lessees or Contractors – Completed Operations endorsement CG 20 37 without an edition date specified;

then paragraph **2.a.** above applies.

d. Premises, as respects paragraph **2.a.(1)** above, include common or public areas about such premises if so required in the written contract or written agreement.

e. Additional insured status provided under paragraphs **2.a.(1)(b)** or **2.a.(1)(c)** above does not extend beyond the end of a premises lease or rental agreement.

f. The limits of insurance that apply to the additional insured are the least of those specified in the:

(1) Written contract;

(2) Written agreement;

(3) Certificate of insurance; or

(4) Declarations of this policy.

The limits of insurance are inclusive of and not in addition to the limits of insurance shown in the Declarations.

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g. The insurance provided to the additional insured does not apply to "bodily injury", "property damage", or "personal and advertising injury" arising out of an architect's, engineer's, or surveyor's rendering of, or failure to render, any professional services, including but not limited to:

(1) The preparing, approving, or failing to prepare or approve:

(a) Maps;

(b) Drawings;

(c) Opinions;

(d) Reports;

(e) Surveys;

(f) Change orders;

(g) Design specifications; and

(2) Supervisory, inspection, or engineering services.

h. **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, paragraph **4. Other Insurance** is deleted and replaced with the following:

4. Other Insurance.

Coverage provided by this endorsement is excess over any other valid and collectible insurance available to the additional insured whether:

a. Primary;

b. Excess;

c. Contingent; or

d. On any other basis;

but if the written contract, written agreement, or certificate of insurance requires primary and non-contributory coverage, this insurance will be primary and non-contributory relative to other insurance available to the additional insured which covers that person or organization as a Named Insured, and we will not share with that other insurance.

i. If the written contract, written agreement, or certificate of insurance as outlined above requires additional insured status by use of CG 20 10 11 85, then the coverage provided under this CG 70 48 endorsement does not apply except for paragraph **2.h. Other Insurance.** Additional insured status is limited to that provided by CG 20 10 11 85 shown below and paragraph **2.h. Other Insurance** shown above.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS (FORM B)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Person or Organization: Blanket Where Required by Written Contract, Agreement, or Certificate of Insurance that the terms of CG 20 10 11 85 apply

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

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j. The insurance provided by this endorsement does not apply to any premises or work for which the person or organization is specifically listed as an additional insured on another endorsement attached to this policy.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FLORIDA
ADVANTAGE GENERAL LIABILITY EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Under **SECTION I - COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, paragraph **2. EXCLUSIONS**, provisions **1.** through **6.** of this endorsement amend the policy as follows:

1. LIQUOR LIABILITY

Exclusion **c. Liquor Liability** is deleted.

2. AMENDED FELLOW EMPLOYEE EXCLUSION

A. The following is added to Paragraph **2.a. (1)** of **Section II – Who Is An Insured:**

Paragraphs **(a), (b)** and **(c)** above do not apply to your "employees" that are:

(i) Managers;

(ii) Supervisors;

(iii) Directors; or

(iv) Officers;

with respect to "bodily injury" to a "co-employee".

B. This Amended Fellow Employee Exclusion coverage is excess over any other valid and collectible insurance.

3. NONOWNED WATERCRAFT AND NONOWNED AIRCRAFT (HIRED, RENTED OR LOANED WITH PAID CREW)

Exclusion **g. Aircraft, Auto or Watercraft,** paragraph **(2)** is deleted and replaced with the following:

(2) A watercraft you do not own that is:

(a) Less than 51 feet long; and

(b) Not being used to carry persons or property for a charge;

Exclusion **g. Aircraft, Auto or Watercraft,** paragraph **(6)** is added as follows:

(6) An aircraft that you do not own that is:

(a) Hired;

(b) Rented; or

(c) Loaned to you;

with paid crew for a period of five (5) consecutive days or less.

Paragraph **(6)** does not apply if the insured has any other insurance for "bodily injury" or "property damage" liability for such aircraft, whether such other insurance is primary, excess, contingent or on any other basis.

4. PREMISES ALIENATED

A. Exclusion **j. Damage to Property**, paragraph **(2)** is deleted.

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B. The following paragraph is also deleted from Exclusion **j. Damage to Property:**

Paragraph **(2)** of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

5. **PROPERTY DAMAGE LIABILITY - ELEVATORS AND SIDETRACK AGREEMENTS**

A. Exclusion **j. Damage to Property**, paragraphs **(3)** and **(6)** do not apply to the use of elevators.

B. Exclusion **k. Damage to Your Product** does not apply to:

1. The use of elevators; or

2. Liability assumed under a sidetrack agreement.

6. **PROPERTY DAMAGE LIABILITY – PROPERTY LOANED TO YOU AND PERSONAL PROPERTY IN THE CARE, CUSTODY AND CONTROL OF THE INSURED**

A. Exclusion **j. Damage to Property**, paragraphs **(3)** and **(4)** are deleted, however paragraph 3. is deleted only for this provision **6.**

B. Provision **6. A.** above does not apply to "property damage" that exceeds $25,000 per occurrence or $25,000 annual aggregate regardless of the number of:

1. Insureds;

2. Claims made; or

3. Persons or organizations making claims.

C. This provision **6.** does not apply if Property Damage Coverage Endorsement CG 70 21 is attached to this policy.

The insurance afforded by provisions **1.** through **6.** of this endorsement is excess over any valid and collectible insurance (including any deductible) available to the insured whether primary, excess or contingent, and **SECTION IV.**, paragraph **4. Other Insurance** is changed accordingly.

7. **CONTRACTUAL LIABILITY - PERSONAL AND ADVERTISING INJURY**

Under **SECTION 1 - COVERAGE B.**, paragraph **2. Exclusions,** paragraph **e. Contractual Liability** is deleted.

8. **SUPPLEMENTARY PAYMENTS**

Under **SECTION I - SUPPLEMENTARY PAYMENTS - COVERAGES A AND B**, paragraphs **1.b.** and **1.d.** are deleted and replaced with the following:

b. Up to $2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to $500 a day because of time off from work.

9. **BROADENED WHO IS AN INSURED**

SECTION II - WHO IS AN INSURED is deleted and replaced with the following:

1. If you are designated in the Declarations as:

a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.

b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.

c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

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d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees," other than either your "executive officers," (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insured for:

(1) "Bodily injury" or "personal and advertising injury":

(a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of paragraph **(1) (a)** above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraphs **(1) (a)** or **(b)** above; or

(d) Arising out of his or her providing or failing to provide professional health care services except as provided in Provision **10.** of this endorsement.

(2) "Property damage" to property:

(a) Owned, occupied or used by;

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by

you, any of your "employees," "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. Any person or organization having proper temporary custody of your property if you die, but only;

(1) With respect to liability arising out of the maintenance or use of that property; and

(2) Until your legal representative has been appointed.

d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

e. Your subsidiaries if:

(1) They are legally incorporated entities; and

(2) You own more than 50% of the voting stock in such subsidiaries as of the effective date of this policy.

If such subsidiaries are not shown in the Declarations, you must report them to us within 180 days of the inception of your original policy.

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f. Any person or organization to whom you are obligated by virtue of a written contract to provide insurance such as is afforded by this policy, but only with respect to liability arising out of the maintenance or use of that part of any premises leased to you, including common or public areas about such premises if so required in the contract.

However, no such person or organization is an insured with respect to:

(1) Any "occurrence" that takes place after you cease to occupy those premises; or

(2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

g. Any state or political subdivision but only as respects legal liability incurred by the state or political subdivision solely because it has issued a permit with respect to operations performed by you or on your behalf.

However, no state or political subdivision is an insured with respect to:

(1) "Bodily injury", "property damage", "personal and advertising injury" arising out of operations performed for the state or municipality; or

(2) "Bodily injury" or "property damage" included within the "products-completed operations hazard."

h. Any person or organization who is the lessor of equipment leased to you to whom you are obligated by virtue of a written contact to provide insurance such as is afforded by this policy, but only with respect to their liability arising out of the maintenance, operation or use by you of such equipment.

However, no such person or organization is an insured with respect to any "occurrence" that takes place after the equipment lease expires.

i. Any manager, owner, lessor, mortgagee, assignee or receiver of premises, including land leased to you, but only with respect to liability arising out of the ownership, maintenance, or use of that part of the premises or land leased to you.

However, no such person or organization is an insured with respect to:

(1) Any "occurrence" that takes place after you cease to occupy that premises, or cease to lease the land; or

(2) Structural alteration, new construction or demolition operations performed by or on behalf of that person or organization.

j. Any person or organization granting a license to make or distribute "your products", including "your products" that use the name or logo of such grantor and to whom you are obligated by virtue of a written contract to provide insurance such as afforded by this policy, but only with respect to liability arising out of "your products".

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only until the end of the policy period;

b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization;

c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

4. Any person or organization (referred to below as vendor) with whom you agreed because of a written contract or agreement to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" that are distributed or sold in the regular course of the vendor's business.

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However, no such person or organization is an insured with respect to:

a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement.

b. Any express warranty unauthorized by you;

c. Any physical or chemical change in the product made intentionally by the vendor;

d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

e. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

f. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor.

g. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(1) The exceptions contained in subparagraphs **d.** or **e.**; or

(2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

This insurance does not apply to any insured person or organization from which you have acquired such products, or any ingredient, part of container, entering into, accompanying or containing such products.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

10. INCIDENTAL MALPRACTICE LIABILITY

As respects provision **9., SECTION II - WHO IS AN INSURED,** paragraph **2.a.(1)(d)** does not apply to any nurse, emergency medical technician or paramedic employed by you to provide medical or paramedical services, provided that you are not engaged in the business or occupation of providing such services, and your "employee" does not have any other insurance that would also cover claims arising under this provision, whether the other insurance is primary, excess, contingent or on any other basis.

Under **SECTION III - LIMITS OF INSURANCE**, provisions **11.** and **12.** of this endorsement amend the policy as follows:

11. AGGREGATE LIMITS PER LOCATION

The General Aggregate Limit applies separately to each of your locations. As respects this provision **11.**, your locations are premises you own, rent or use involving the same or connecting lots or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

12. INCREASED MEDICAL PAYMENTS LIMIT AND REPORTING PERIOD

A. The requirement under **SECTION I - COVERAGE C MEDICAL PAYMENTS** that expenses be incurred and reported to us within one year of the date of the accident is changed to three years.

B. **SECTION III – LIMITS OF INSURANCE,** paragraph **7.**, the Medical Expense Limit, is subject to all the terms of **SECTION III - LIMITS OF INSURANCE** and is the higher of:

1. $10,000; or

2. The amount shown in the Declarations for Medical Expense Limit.

C. This provision **12.** does not apply if **COVERAGE C MEDICAL PAYMENTS** is excluded either by the provisions of the Coverage Form or by endorsement.

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13. LEGAL LIABILITY (SPECIFIC PERILS)

A. The word fire is changed to "specific perils" where it appears in:

1. The Limits of Insurance section of the Declarations;

2. The last paragraph of **SECTION I – COVERAGE A,** paragraph **2. Exclusions**:

3. SECTION IV, paragraph **4.b. Excess Insurance.**

B. The Limits of Insurance shown in the Declarations will apply to all damage proximately caused by the same event, whether such damage results from a "specific peril" or any combination of "specific perils."

C. The Damage to Premises Rented to You Limit described in **SECTION III - LIMITS OF INSURANCE,** paragraph **6.**, is the higher of:

(1) $300,000; or

(2) The amount shown in the Declarations for Damage to Premises Rented to You Limit.

D. This provision **13.** does not apply if Damage to Premises Rented to You of **SECTION I – COVERAGE A** is excluded either by the provisions of the Coverage Part or by endorsement.

Under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**, provisions **14.** through **16.** of this endorsement amend the policy as follows:

14. KNOWLEDGE OF OCCURRENCE

Under **2. Duties In The Event Of Occurrence, Offense, Claim Or Suit**, paragraph **a.** is deleted and replaced by the following:

a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense, regardless of the amount, which may result in a claim. Knowledge of an "occurrence" or an offense by your "employee(s)" shall not, in itself, constitute knowledge to you unless one of your partners, members, "executive officers", directors, or managers has knowledge of the "occurrence" or offense. To the extent possible, notice should include:

(1) How, when and where the "occurrence" or offense took place;

(2) The names and addresses of any injured persons and witnesses; and

(3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

15. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

Paragraph **6. Representations** is deleted and replaced with the following:

6. Representations

By accepting this policy, you agree:

a. The statements in the Declarations are accurate and complete;

b. Those statements are based upon representations you made to us;

c. We have issued this policy in reliance upon your representations; and

d. This policy is void in any case of fraud by you as it relates to this policy or any claim under this policy.

We will not deny coverage under this coverage part if you unintentionally fail to disclose all hazards existing as of the inception date of this policy. You must report to us any knowledge of an error or omission in the description of any premises or operations intended to be covered by the Coverage Part as soon as practicable after its discovery. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or nonrenewal.

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16. TRANSFER OF RIGHTS (BLANKET WAIVER OF SUBROGATION)

Paragraph **8. Transfer of Rights Of Recovery Against Others To Us** is deleted and replaced with the following:

8. If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. However, if the insured has waived rights to recover through a written contract, or if "your work" was commenced under a letter of intent or work order, subject to a subsequent reduction to writing with customers whose customary contracts require a waiver, we waive any right of recovery we may have under this Coverage Part.

17. MOBILE EQUIPMENT REDEFINED

Under **SECTION V - DEFINITIONS**, paragraph **12.** "Mobile equipment", paragraph **f (1)** does not apply to self-propelled vehicles of less than 1,000 pounds gross vehicle weight.

18. DEFINITIONS

1. SECTION V – DEFINITIONS, Paragraph **4.** "Coverage territory" is replaced by the following definition:

4. "Coverage territory" means anywhere in the world with respect to liability arising out of "bodily injury," "property damage," or "personal and advertising injury," including "personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication provided the insured's responsibility to pay damages is determined in a settlement to which we agree or in a "suit" on the merits, in the United States of America (including its territories and possessions), Puerto Rico and Canada.

2. SECTION V – DEFINITIONS is amended by the addition of the following definitions:

"Specific Perils" means fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; weight of snow, ice or sleet; or "water damage."

"Water damage" means accidental discharge or leakage of water or steam as the direct result of the breaking or cracking of any part of a system or appliance containing water or steam.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FLORIDA ADVANTAGE
COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the

BUSINESS AUTO COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

The premium for this endorsement is $ $350.00

1. EXTENDED CANCELLATION CONDITION

COMMON POLICY CONDITIONS - CANCELLATION, Paragraph **A.2.** is replaced by the following:

2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:

a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or

b. 60 days before the effective date of cancellation if we cancel for any other reason.

2. BROAD FORM INSURED

SECTION II - LIABILITY COVERAGE A.1. WHO IS AN INSURED is amended by the addition of the following:

d. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or a majority interest, will qualify as a Named Insured. However,

(1) Coverage under this provision is afforded only until the end of the policy period;

(2) Coverage does not apply to "accidents" or "loss" that occurred before you acquired or formed the organization; and

(3) Coverage does not apply to an organization that is an "insured" under any other policy or would be an "insured" but for its termination or the exhausting of its limit of insurance.

e. Any "employee" of yours using:

(1) A covered "auto" you do not own, hire or borrow, or a covered "auto" not owned by the "employee" or a member of his or her household, while performing duties related to the conduct of your business or your personal affairs; or

(2) An "auto" hired or rented under a contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business. However, your "employee" does not qualify as an insured under this paragraph (2) while using a covered "auto" rented from you or from any member of the "employee's" household.

f. Your members, if you are a limited liability company, while using a covered "auto" you do not own, hire, or borrow, while performing duties related to the conduct of your business or your personal affairs.

g. Any person or organization with whom you agree in a written contract, written agreement or permit, to provide insurance such as is afforded under this policy, but only with respect to your covered "autos".

This provision does not apply:

(1) Unless the written contract or agreement is executed or the permit is issued prior to the "bodily injury" or "property damage";

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(2) To any person or organization included as an insured by an endorsement or in the Declarations; or

(3) To any lessor of "autos" unless:

(a) The lease agreement requires you to provide direct primary insurance for the lessor;

(b) The "auto" is leased without a driver; and

(c) The lease had not expired.

Leased "autos" covered under this provision will be considered covered "autos" you own and not covered "autos" you hire.

h. Any legally incorporated organization or subsidiary in which you own more than 50% of the voting stock on the effective date of this endorsement.

This provision does not apply to "bodily injury" or "property damage" for which an "insured" is also an insured under any other automobile policy or would be an insured under such a policy, but for its termination or the exhaustion of its limits of insurance, unless such policy was written to apply specifically in excess of this policy.

3. COVERAGE EXTENSIONS - SUPPLEMENTARY PAYMENTS

Under SECTION II - LIABILITY COVERAGE, A.2.a. Supplementary Payments, paragraphs (2) and (4) are deleted and replaced with the following:

(2) Up to $2500 for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to $500 a day because of time off from work.

4. AMENDED FELLOW EMPLOYEE EXCLUSION

SECTION II - LIABILITY COVERAGE, B. EXCLUSIONS, paragraph **5. FELLOW EMPLOYEE** is deleted and replaced by the following:

"Bodily injury" to any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business. However, this exclusion does not apply to your "employees" that are officers or managers if the "bodily injury" results from the use of a covered "auto" you own, hire or borrow. Coverage is excess over any other collectible insurance.

5. HIRED AUTO PHYSICAL DAMAGE COVERAGE AND LOSS OF USE EXPENSE

A. Under SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE, the following is added:

If any of your owned covered "autos" are covered for Physical Damage, we will provide Physical Damage coverage to "autos" that you or your "employees" hire or borrow, under your name or the "employee's" name, for the purpose of doing your work. We will provide coverage equal to the broadest physical damage coverage applicable to any covered "auto" shown in the Declarations, Item Three, Schedule of Covered Autos You Own, or on any endorsements amending this schedule.

B. Under **SECTION III - PHYSICAL DAMAGE COVERAGE, A.4. COVERAGE EXTENSIONS,** paragraph **b. Loss of Use Expenses** is deleted and replaced with the following:

b. Loss Of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver, under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

(1) Other than collision, only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";

(2) Specified Causes of Loss, only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or

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(3) Collision, only if the Declarations indicate that Collision Coverage is provided for any covered "auto".

However, the most we will pay for any expenses for loss of use is $30 per day, to a maximum of $2,000.

C. Under **SECTION IV – BUSINESS AUTO CONDITIONS**, paragraph **5.b. Other Insurance** is deleted and replaced by the following:

b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

1. Any covered "auto" you lease, hire, rent or borrow; and

2. Any covered "auto" hired or rented by your "employee" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto", nor is any "auto" you hire from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

6. LOAN OR LEASE GAP COVERAGE

Under **SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE**, the following is added:

If a covered "auto" is owned or leased and if we provide Physical Damage Coverage on it, we will pay, in the event of a covered total "loss", any unpaid amount due on the lease or loan for a covered "auto", less:

(a) The amount paid under the Physical Damage Coverage Section of the policy; and

(b) Any:

(1) Overdue lease or loan payments including penalties, interest or other charges resulting from overdue payments at the time of the "loss";

(2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;

(3) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease;

(4) Security deposits not refunded by a lessor; and

(5) Carry-over balances from previous loans or leases.

7. RENTAL REIMBURSEMENT

SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE, paragraph **4. Coverage Extensions** is deleted and replaced by the following:

4. Coverage Extensions

(a) We will pay up to $75 per day to a maximum of $2000 for transportation expense incurred by you because of covered "loss". We will pay only for those covered "autos" for which you carry Collision Coverage or either Comprehensive Coverage or Specified Causes of Loss Coverage. We will pay for transportation expenses incurred during the period beginning 24 hours after the covered "loss" and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss". This coverage is in addition to the otherwise applicable coverage you have on a covered "auto". No deductibles apply to this coverage.

(b) This coverage does not apply while there is a spare or reserve "auto" available to you for your operation.

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8. **AIRBAG COVERAGE**

SECTION III - PHYSICAL DAMAGE, B. EXCLUSIONS, Paragraph **3.** is deleted and replaced by the following:

We will not pay for "loss" caused by or resulting from any of the following unless caused by other "loss" that is covered by this insurance:

a. Wear and tear, freezing, mechanical or electrical breakdown. However, this exclusion does not include the discharge of an airbag.

b. Blowouts, punctures or other road damage to tires.

9. **GLASS REPAIR - WAIVER OF DEDUCTIBLE**

SECTION III - PHYSICAL DAMAGE COVERAGE, D. DEDUCTIBLE is amended to add the following:

No deductible applies to glass damage.

10. **COLLISION COVERAGE – WAIVER OF DEDUCTIBLE**

SECTION III - PHYSICAL DAMAGE COVERAGE, D. DEDUCTIBLE is amended to add the following:

When there is a "loss" to your covered "auto" insured for Collision Coverage, no deductible will apply if the "loss" was caused by a collision with another "auto" insured by us.

11. **KNOWLEDGE OF ACCIDENT**

SECTION IV - BUSINESS AUTO CONDITIONS, A. LOSS CONDITIONS, 2. DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS, paragraph a. is deleted and replaced by the following:

a. You must see to it that we are notified as soon as practicable of an "accident", claim, "suit" or "loss". Knowledge of an "accident", claim, "suit" or "loss" by your "employees" shall not, in itself, constitute knowledge to you unless one of your partners, executive officers, directors, managers, or members (if you are a limited liability company) has knowledge of the "accident", claim, "suit" or "loss". Notice should include:

(1) How, when and where the "accident" or "loss" occurred;

(2) The "insured's" name and address; and

(3) To the extent possible, the names and addresses of any injured persons and witnesses.

12. **TRANSFER OF RIGHTS (BLANKET WAIVER OF SUBROGATION)**

SECTION IV - BUSINESS AUTO CONDITIONS A.5. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US is deleted and replaced by the following:

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them. However, if the insured has waived rights to recover through a written contract, or if your work was commenced under a letter of intent or work order, subject to a subsequent reduction in writing with customers whose customary contracts require a waiver, we waive any right of recovery we may have under this Coverage Form.

13. **UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

SECTION IV - BUSINESS AUTO CONDITIONS, B. GENERAL CONDITIONS, 2. CONCEALMENT, MISREPRESENTATION OR FRAUD is amended by the addition of the following:

We will not deny coverage under this Coverage Form if you unintentionally fail to disclose all hazards existing as of the inception date of this policy. You must report to us any knowledge of an error or omission in your representations as soon as practicable after its discovery. This provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

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14. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT COVERAGE

SCHEDULE

Description of Covered "Auto":

Limit of Insurance	Deductible
$500	$250

A. Coverage

1. We will pay, with respect to a covered "auto" described in the above Schedule, for "loss" to any electronic equipment that receives or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound. This coverage applies only if the equipment is permanently installed in the covered "auto" at the time of the "loss" or the equipment is removable from a housing unit that is permanently installed in the covered "auto" at the time of "loss", and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto".
2. We will pay, with respect to a covered "auto" described in the above Schedule, for "loss" to any accessories used with the electronic equipment described in paragraph A.1. above. However, this does not include tapes, records or discs.

B. Exclusions

For purposes of this provision 14, the exclusions that apply to Physical Damage Coverage, except for the exclusion relating to Audio, Visual and Data Electronic Equipment, also apply to coverage provided by this endorsement. In addition, the following exclusions apply:

We will not pay, under this endorsement, for either any electronic equipment or accessories used with such electronic equipment that is:

1. Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system; or
2. Both:
   a. An integral part of the same unit housing any sound reproducing equipment designed solely for the reproduction of sound if the sound reproducing equipment is permanently installed in the covered "auto"; and
   b. Permanently installed in the opening of the dash or console normally used by the manufacturer for the installation of a radio.
3. A device designed or used to detect speed measuring equipment such as radar or laser detectors or a jamming apparatus intended to elude or disrupt speed measurement equipment, whether permanently installed or temporarily mounted in or on the covered "auto".

C. Limit of Insurance

With respect to coverage under provision 14. of this endorsement, the Limit of Insurance provision of Physical Damage Coverage is replaced by the following:

1. The most we will pay for all "loss" to audio, visual or data electronic equipment and any accessories used with this equipment, as described in paragraph A. above, as a result of any one "accident", is the lesser of:
   a. The actual cash value of the damaged or stolen property as of the time of the "loss"; or
   b. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality; or
   c. The amount shown in the Schedule.

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2. An adjustment for depreciation and physical condition will be made in determining actual cash value at the time of the "loss".

3. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of betterment.

D. Deductible

1. If "loss" to the audio, visual or data electronic equipment or accessories used with this equipment, as described in paragraph A. above, is the result of a "loss" to the covered "auto" under this Coverage Form's Comprehensive or Collision Coverage, then for each covered "auto" our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations. Any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" to audio, visual or data electronic equipment caused by fire or lightning.

2. If "loss" to the audio, visual or data electronic equipment or accessories used with this equipment, as described in paragraph A. above, is the result of a "loss" to the covered "auto" under this Coverage Form's Specified Causes of Loss Coverage, then for each covered "auto" our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Schedule of this endorsement.

3. If "loss" occurs solely to the audio, visual or data electronic equipment or accessories used with this equipment, as described in paragraph A. above, then for each covered "auto" our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Schedule of this endorsement.

4. In the event that there is more than one applicable deductible, only the highest deductible will apply. In no event will more than one deductible apply.

E. When This Provision Becomes Void

This provision, **AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT COVERAGE**, is void if CA 99 60, Audio, Visual And Data Electronic Equipment Coverage, is attached to the policy.

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WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

"Any person or organization required by written contract or certificate of insurance."

"This endorsement is not applicable in California, Kentucky, New Hampshire, New Jersey, Texas and Utah."

The endorsement does not apply to policies or exposure in Missouri where the employer is in the construction group of classifications. According to Section 287.150(6) of the Missouri statutes, a contractual provision purporting to waive subrogation rights is against public policy and void where one party to the contract is an employer in the construction group of code classifications. For policies or exposure in Missouri, the following must be included in the Schedule:

- Any person or organization for which the employer has agreed by written contract, executed prior to loss, may execute a waiver of subrogation. However, for purposes of work performed by the employer in Missouri, this waiver of subrogation does not apply to any construction group of classifications as designated by the waiver of right to recover from others (subrogation) rule in our manual.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Policy No. Endorsement No. 0

Insured Premium $

Insurance Company Countersigned by Robert Rolls

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Reorder No. 14-4888

	City of Cocoa | Finance Department | Purchasing & Contracts Division 65 Stone Street, Cocoa, FL 32922 Phone: 321-433-8486, or extension 8844 | Fax: 321-433-8690	Solicitation Number: ITB B-22-14-COC
	INVITATION TO BID (ITB)	Due Date: June 15, 2022
TITLE:	**Filter Belt Press Programmable Logic Control (PLC) Upgrades**	

Attachment "P"

E-Verify Contractor Affidavit

I hereby certify that CC Control Corp [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 CC Control Corp [insert contractor company name] proof of registration in the E-Verify system is attached to this Affidavit.

Luis L Garcia

Print Name: Luis L Garcia President

Date: June 15,2022

STATE OF FLORIDA

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this June 15,2022 (date) by Luis L Garcia (name of officer or agent, title of officer or agent) of CC Control Corp (name of corporation acknowledging) , a Florida (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced n/a (type of identification) as identification.

[Notary Seal] Notary Public

Colleen McKenna

Name typed, printed, or stamped

My Commission Expires: 10/17/2023

Colleen McKenna
Notary Public, State of Florida
My Comm. Expires 10/17/2023
Commission No. GG346781

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☜

E-Verify

Company ID Number: 1622938

THE E-VERIFY MEMORANDUM OF UNDERSTANDING FOR EMPLOYERS

ARTICLE I
PURPOSE AND AUTHORITY

The parties to this agreement are the Department of Homeland Security (DHS) and CC Control Corp (Employer). The purpose of this agreement is to set forth terms and conditions which the Employer will follow while participating in E-Verify.

E-Verify is a program that electronically confirms an employee's eligibility to work in the United States after completion of Form I-9, Employment Eligibility Verification (Form I-9). This Memorandum of Understanding (MOU) explains certain features of the E-Verify program and describes specific responsibilities of the Employer, the Social Security Administration (SSA), and DHS.

Authority for the E-Verify program is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat. 3009, as amended (8 U.S.C. § 1324a note). The Federal Acquisition Regulation (FAR) Subpart 22.18, "Employment Eligibility Verification" and Executive Order 12989, as amended, provide authority for Federal contractors and subcontractors (Federal contractor) to use E-Verify to verify the employment eligibility of certain employees working on Federal contracts.

ARTICLE II
RESPONSIBILITIES

A. RESPONSIBILITIES OF THE EMPLOYER

1. The Employer agrees to display the following notices supplied by DHS in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the system:

   a. Notice of E-Verify Participation

   b. Notice of Right to Work

2. The Employer agrees to provide to the SSA and DHS the names, titles, addresses, and telephone numbers of the Employer representatives to be contacted about E-Verify. The Employer also agrees to keep such information current by providing updated information to SSA and DHS whenever the representatives' contact information changes.

3. The Employer agrees to grant E-Verify access only to current employees who need E-Verify access. Employers must promptly terminate an employee's E-Verify access if the employer is separated from the company or no longer needs access to E-Verify.

4. The Employer agrees to become familiar with and comply with the most recent version of the E-Verify User Manual.

5. The Employer agrees that any Employer Representative who will create E-Verify cases will complete the E-Verify Tutorial before that individual creates any cases.

a. The Employer agrees that all Employer representatives will take the refresher tutorials when prompted by E-Verify in order to continue using E-Verify. Failure to complete a refresher tutorial will prevent the Employer Representative from continued use of E-Verify.

6. The Employer agrees to comply with current Form I-9 procedures, with two exceptions:

a. If an employee presents a "List B" identity document, the Employer agrees to only accept "List B" documents that contain a photo. (List B documents identified in 8 C.F.R. § 274a.2(b)(1)(B)) can be presented during the Form I-9 process to establish identity.) If an employee objects to the photo requirement for religious reasons, the Employer should contact E-Verify at 888-464-4218.

b. If an employee presents a DHS Form I-551 (Permanent Resident Card), Form I-766 (Employment Authorization Document), or U.S. Passport or Passport Card to complete Form I-9, the Employer agrees to make a photocopy of the document and to retain the photocopy with the employee's Form I-9. The Employer will use the photocopy to verify the photo and to assist DHS with its review of photo mismatches that employees contest. DHS may in the future designate other documents that activate the photo screening tool.

Note: Subject only to the exceptions noted previously in this paragraph, employees still retain the right to present any List A, or List B and List C, document(s) to complete the Form I-9.

7. The Employer agrees to record the case verification number on the employee's Form I-9 or to print the screen containing the case verification number and attach it to the employee's Form I-9.

8. The Employer agrees that, although it participates in E-Verify, the Employer has a responsibility to complete, retain, and make available for inspection Forms I-9 that relate to its employees, or from other requirements of applicable regulations or laws, including the obligation to comply with the antidiscrimination requirements of section 274B of the INA with respect to Form I-9 procedures.

a. The following modified requirements are the only exceptions to an Employer's obligation to not employ unauthorized workers and comply with the anti-discrimination provision of the INA: (1) List B identity documents must have photos, as described in paragraph 6 above; (2) When an Employer confirms the identity and employment eligibility of newly hired employee using E-Verify procedures, the Employer establishes a rebuttable presumption that it has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act (INA) with respect to the hiring of that employee; (3) If the Employer receives a final nonconfirmation for an employee, but continues to employ that person, the Employer must notify DHS and the Employer is subject to a civil money penalty between $550 and $1,100 for each failure to notify DHS of continued employment following a final nonconfirmation; (4) If the Employer continues to employ an employee after receiving a final nonconfirmation, then the Employer is subject to a rebuttable presumption that it has knowingly

employed an unauthorized alien in violation of section 274A(a)(1)(A); and (5) no E-Verify participant is civilly or criminally liable under any law for any action taken in good faith based on information provided through the E-Verify.

b. DHS reserves the right to conduct Form I-9 compliance inspections, as well as any other enforcement or compliance activity authorized by law, including site visits, to ensure proper use of E-Verify.

9. The Employer is strictly prohibited from creating an E-Verify case before the employee has been hired, meaning that a firm offer of employment was extended and accepted and Form I-9 was completed. The Employer agrees to create an E-Verify case for new employees within three Employer business days after each employee has been hired (after both Sections 1 and 2 of Form I-9 have been completed), and to complete as many steps of the E-Verify process as are necessary according to the E-Verify User Manual. If E-Verify is temporarily unavailable, the three-day time period will be extended until it is again operational in order to accommodate the Employer's attempting, in good faith, to make inquiries during the period of unavailability.

10. The Employer agrees not to use E-Verify for pre-employment screening of job applicants, in support of any unlawful employment practice, or for any other use that this MOU or the E-Verify User Manual does not authorize.

11. The Employer must use E-Verify for all new employees. The Employer will not verify selectively and will not verify employees hired before the effective date of this MOU. Employers who are Federal contractors may qualify for exceptions to this requirement as described in Article II.B of this MOU.

12. The Employer agrees to follow appropriate procedures (see Article III below) regarding tentative nonconfirmations. The Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify case. The Employer agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Employer agrees to provide written referral instructions to employees and instruct affected employees to bring the English copy of the letter to the SSA. The Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending. Further, when employees contest a tentative nonconfirmation based upon a photo mismatch, the Employer must take additional steps (see Article III.B. below) to contact DHS with information necessary to resolve the challenge.

13. The Employer agrees not to take any adverse action against an employee based upon the employee's perceived employment eligibility status while SSA or DHS is processing the verification request unless the Employer obtains knowledge (as defined in 8 C.F.R. § 274a.1(l)) that the employee is not work authorized. The Employer understands that an initial inability of the SSA or DHS automated verification system to verify work authorization, a tentative nonconfirmation, a case in continuance (indicating the need for additional time for the government to resolve a case), or the finding of a photo mismatch, does not establish, and should not be interpreted as, evidence that the employee is not work authorized. In any of such cases, the employee must be provided a full and fair opportunity to contest the finding, and if he or she does so, the employee may not be terminated or suffer any adverse employment consequences based upon the employee's perceived employment eligibility status

(including denying, reducing, or extending work hours, delaying or preventing training, requiring an employee to work in poorer conditions, withholding pay, refusing to assign the employee to a Federal contract or other assignment, or otherwise assuming that he or she is unauthorized to work) until and unless secondary verification by SSA or DHS has been completed and a final nonconfirmation has been issued. If the employee does not choose to contest a tentative nonconfirmation or a photo mismatch or if a secondary verification is completed and a final nonconfirmation is issued, then the Employer can find the employee is not work authorized and terminate the employee's employment. Employers or employees with questions about a final nonconfirmation may call E-Verify at 1-888-464-4218 (customer service) or 1-888-897-7781 (worker hotline).

14. The Employer agrees to comply with Title VII of the Civil Rights Act of 1964 and section 274B of the INA as applicable by not discriminating unlawfully against any individual in hiring, firing, employment eligibility verification, or recruitment or referral practices because of his or her national origin or citizenship status, or by committing discriminatory documentary practices. The Employer understands that such illegal practices can include selective verification or use of E-Verify except as provided in part D below, or discharging or refusing to hire employees because they appear or sound "foreign" or have received tentative nonconfirmations. The Employer further understands that any violation of the immigration-related unfair employment practices provisions in section 274B of the INA could subject the Employer to civil penalties, back pay awards, and other sanctions, and violations of Title VII could subject the Employer to back pay awards, compensatory and punitive damages. Violations of either section 274B of the INA or Title VII may also lead to the termination of its participation in E-Verify. If the Employer has any questions relating to the anti-discrimination provision, it should contact OSC at 1-800-255-8155 or 1-800-237-2515 (TDD).

15. The Employer agrees that it will use the information it receives from E-Verify only to confirm the employment eligibility of employees as authorized by this MOU. The Employer agrees that it will safeguard this information, and means of access to it (such as PINS and passwords), to ensure that it is not used for any other purpose and as necessary to protect its confidentiality, including ensuring that it is not disseminated to any person other than employees of the Employer who are authorized to perform the Employer's responsibilities under this MOU, except for such dissemination as may be authorized in advance by SSA or DHS for legitimate purposes.

16. The Employer agrees to notify DHS immediately in the event of a breach of personal information. Breaches are defined as loss of control or unauthorized access to E-Verify personal data. All suspected or confirmed breaches should be reported by calling 1-888-464-4218 or via email at E-Verify@dhs.gov. Please use "Privacy Incident – Password" in the subject line of your email when sending a breach report to E-Verify.

17. The Employer acknowledges that the information it receives from SSA is governed by the Privacy Act (5 U.S.C. § 552a(i)(1) and (3)) and the Social Security Act (42 U.S.C. 1306(a)). Any person who obtains this information under false pretenses or uses it for any purpose other than as provided for in this MOU may be subject to criminal penalties.

18. The Employer agrees to cooperate with DHS and SSA in their compliance monitoring and evaluation of E-Verify, which includes permitting DHS, SSA, their contractors and other agents, upon

reasonable notice, to review Forms I-9 and other employment records and to interview it and its employees regarding the Employer's use of E-Verify, and to respond in a prompt and accurate manner to DHS requests for information relating to their participation in E-Verify.

19. The Employer shall not make any false or unauthorized claims or references about its participation in E-Verify on its website, in advertising materials, or other media. The Employer shall not describe its services as federally-approved, federally-certified, or federally-recognized, or use language with a similar intent on its website or other materials provided to the public. Entering into this MOU does not mean that E-Verify endorses or authorizes your E-Verify services and any claim to that effect is false.

20. The Employer shall not state in its website or other public documents that any language used therein has been provided or approved by DHS, USCIS or the Verification Division, without first obtaining the prior written consent of DHS.

21. The Employer agrees that E-Verify trademarks and logos may be used only under license by DHS/USCIS (see M-795 (Web)) and, other than pursuant to the specific terms of such license, may not be used in any manner that might imply that the Employer's services, products, websites, or publications are sponsored by, endorsed by, licensed by, or affiliated with DHS, USCIS, or E-Verify.

22. The Employer understands that if it uses E-Verify procedures for any purpose other than as authorized by this MOU, the Employer may be subject to appropriate legal action and termination of its participation in E-Verify according to this MOU.

B. RESPONSIBILITIES OF FEDERAL CONTRACTORS

1. If the Employer is a Federal contractor with the FAR E-Verify clause subject to the employment verification terms in Subpart 22.18 of the FAR, it will become familiar with and comply with the most current version of the E-Verify User Manual for Federal Contractors as well as the E-Verify Supplemental Guide for Federal Contractors.

2. In addition to the responsibilities of every employer outlined in this MOU, the Employer understands that if it is a Federal contractor subject to the employment verification terms in Subpart 22.18 of the FAR it must verify the employment eligibility of any "employee assigned to the contract" (as defined in FAR 22.1801). Once an employee has been verified through E-Verify by the Employer, the Employer may not create a second case for the employee through E-Verify.

a. An Employer that is not enrolled in E-Verify as a Federal contractor at the time of a contract award must enroll as a Federal contractor in the E-Verify program within 30 calendar days of contract award and, within 90 days of enrollment, begin to verify employment eligibility of new hires using E-Verify. The Employer must verify those employees who are working in the United States, whether or not they are assigned to the contract. Once the Employer begins verifying new hires, such verification of new hires must be initiated within three business days after the hire date. Once enrolled in E-Verify as a Federal contractor, the Employer must begin verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee's assignment to the contract, whichever date is later.

b. Employers enrolled in E-Verify as a Federal contractor for 90 days or more at the time of a contract award must use E-Verify to begin verification of employment eligibility for new hires of the Employer who are working in the United States, whether or not assigned to the contract, within three business days after the date of hire. If the Employer is enrolled in E-Verify as a Federal contractor for 90 calendar days or less at the time of contract award, the Employer must, within 90 days of enrollment, begin to use E-Verify to initiate verification of new hires of the contractor who are working in the United States, whether or not assigned to the contract. Such verification of new hires must be initiated within three business days after the date of hire. An Employer enrolled as a Federal contractor in E-Verify must begin verification of each employee assigned to the contract within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever is later.

c. Federal contractors that are institutions of higher education (as defined at 20 U.S.C. 1001(a)), state or local governments, governments of Federally recognized Indian tribes, or sureties performing under a takeover agreement entered into with a Federal agency under a performance bond may choose to only verify new and existing employees assigned to the Federal contract. Such Federal contractors may, however, elect to verify all new hires, and/or all existing employees hired after November 6, 1986. Employers in this category must begin verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee's assignment to the contract, whichever date is later.

d. Upon enrollment, Employers who are Federal contractors may elect to verify employment eligibility of all existing employees working in the United States who were hired after November 6, 1986, instead of verifying only those employees assigned to a covered Federal contract. After enrollment, Employers must elect to verify existing staff following DHS procedures and begin E-Verify verification of all existing employees within 180 days after the election.

e. The Employer may use a previously completed Form I-9 as the basis for creating an E-Verify case for an employee assigned to a contract as long as:

i. That Form I-9 is complete (including the SSN) and complies with Article II.A.6,

ii. The employee's work authorization has not expired, and

iii. The Employer has reviewed the Form I-9 information either in person or in communications with the employee to ensure that the employee's Section 1, Form I-9 attestation has not changed (including, but not limited to, a lawful permanent resident alien having become a naturalized U.S. citizen).

f. The Employer shall complete a new Form I-9 consistent with Article II.A.6 or update the previous Form I-9 to provide the necessary information if:

i. The Employer cannot determine that Form I-9 complies with Article II.A.6,

ii. The employee's basis for work authorization as attested in Section 1 has expired or changed, or

iii. The Form I-9 contains no SSN or is otherwise incomplete.

Note: If Section 1 of Form I-9 is otherwise valid and up-to-date and the form otherwise complies with

Article II.C.5, but reflects documentation (such as a U.S. passport or Form I-551) that expired after completing Form I-9, the Employer shall not require the production of additional documentation, or use the photo screening tool described in Article II.A.5, subject to any additional or superseding instructions that may be provided on this subject in the E-Verify User Manual.

g. The Employer agrees not to require a second verification using E-Verify of any assigned employee who has previously been verified as a newly hired employee under this MOU or to authorize verification of any existing employee by any Employer that is not a Federal contractor based on this Article.

3. The Employer understands that if it is a Federal contractor, its compliance with this MOU is a performance requirement under the terms of the Federal contract or subcontract, and the Employer consents to the release of information relating to compliance with its verification responsibilities under this MOU to contracting officers or other officials authorized to review the Employer's compliance with Federal contracting requirements.

C. RESPONSIBILITIES OF SSA

1. SSA agrees to allow DHS to compare data provided by the Employer against SSA's database. SSA sends DHS confirmation that the data sent either matches or does not match the information in SSA's database.

2. SSA agrees to safeguard the information the Employer provides through E-Verify procedures. SSA also agrees to limit access to such information, as is appropriate by law, to individuals responsible for the verification of Social Security numbers or responsible for evaluation of E-Verify or such other persons or entities who may be authorized by SSA as governed by the Privacy Act (5 U.S.C. § 552a), the Social Security Act (42 U.S.C. 1306(a)), and SSA regulations (20 CFR Part 401).

3. SSA agrees to provide case results from its database within three Federal Government work days of the initial inquiry. E-Verify provides the information to the Employer.

4. SSA agrees to update SSA records as necessary if the employee who contests the SSA tentative nonconfirmation visits an SSA field office and provides the required evidence. If the employee visits an SSA field office within the eight Federal Government work days from the date of referral to SSA, SSA agrees to update SSA records, if appropriate, within the eight-day period unless SSA determines that more than eight days may be necessary. In such cases, SSA will provide additional instructions to the employee. If the employee does not visit SSA in the time allowed, E-Verify may provide a final nonconfirmation to the employer.

Note: If an Employer experiences technical problems, or has a policy question, the employer should contact E-Verify at 1-888-464-4218.

D. RESPONSIBILITIES OF DHS

1. DHS agrees to provide the Employer with selected data from DHS databases to enable the Employer to conduct, to the extent authorized by this MOU:

a. Automated verification checks on alien employees by electronic means, and

b. Photo verification checks (when available) on employees.

2. DHS agrees to assist the Employer with operational problems associated with the Employer's participation in E-Verify. DHS agrees to provide the Employer names, titles, addresses, and telephone numbers of DHS representatives to be contacted during the E-Verify process.

3. DHS agrees to provide to the Employer with access to E-Verify training materials as well as an E-Verify User Manual that contain instructions on E-Verify policies, procedures, and requirements for both SSA and DHS, including restrictions on the use of E-Verify.

4. DHS agrees to train Employers on all important changes made to E-Verify through the use of mandatory refresher tutorials and updates to the E-Verify User Manual. Even without changes to E-Verify, DHS reserves the right to require employers to take mandatory refresher tutorials.

5. DHS agrees to provide to the Employer a notice, which indicates the Employer's participation in E-Verify. DHS also agrees to provide to the Employer anti-discrimination notices issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Civil Rights Division, U.S. Department of Justice.

6. DHS agrees to issue each of the Employer's E-Verify users a unique user identification number and password that permits them to log in to E-Verify.

7. DHS agrees to safeguard the information the Employer provides, and to limit access to such information to individuals responsible for the verification process, for evaluation of E-Verify, or to such other persons or entities as may be authorized by applicable law. Information will be used only to verify the accuracy of Social Security numbers and employment eligibility, to enforce the INA and Federal criminal laws, and to administer Federal contracting requirements.

8. DHS agrees to provide a means of automated verification that provides (in conjunction with SSA verification procedures) confirmation or tentative nonconfirmation of employees' employment eligibility within three Federal Government work days of the initial inquiry.

9. DHS agrees to provide a means of secondary verification (including updating DHS records) for employees who contest DHS tentative nonconfirmations and photo mismatch tentative nonconfirmations. This provides final confirmation or nonconfirmation of the employees' employment eligibility within 10 Federal Government work days of the date of referral to DHS, unless DHS determines that more than 10 days may be necessary. In such cases, DHS will provide additional verification instructions.

ARTICLE III
REFERRAL OF INDIVIDUALS TO SSA AND DHS

A. REFERRAL TO SSA

1. If the Employer receives a tentative nonconfirmation issued by SSA, the Employer must print the notice as directed by E-Verify. The Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify

case. The Employer also agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Employer agrees to provide written referral instructions to employees and instruct affected employees to bring the English copy of the letter to the SSA. The Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending.

2. The Employer agrees to obtain the employee's response about whether he or she will contest the tentative nonconfirmation as soon as possible after the Employer receives the tentative nonconfirmation. Only the employee may determine whether he or she will contest the tentative nonconfirmation.

3. After a tentative nonconfirmation, the Employer will refer employees to SSA field offices only as directed by E-Verify. The Employer must record the case verification number, review the employee information submitted to E-Verify to identify any errors, and find out whether the employee contests the tentative nonconfirmation. The Employer will transmit the Social Security number, or any other corrected employee information that SSA requests, to SSA for verification again if this review indicates a need to do so.

4. The Employer will instruct the employee to visit an SSA office within eight Federal Government work days. SSA will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary.

5. While waiting for case results, the Employer agrees to check the E-Verify system regularly for case updates.

6. The Employer agrees not to ask the employee to obtain a printout from the Social Security Administration number database (the Numident) or other written verification of the SSN from the SSA.

B. REFERRAL TO DHS

1. If the Employer receives a tentative nonconfirmation issued by DHS, the Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify case. The Employer also agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending.

2. The Employer agrees to obtain the employee's response about whether he or she will contest the tentative nonconfirmation as soon as possible after the Employer receives the tentative nonconfirmation. Only the employee may determine whether he or she will contest the tentative nonconfirmation.

3. The Employer agrees to refer individuals to DHS only when the employee chooses to contest a tentative nonconfirmation.

4. If the employee contests a tentative nonconfirmation issued by DHS, the Employer will instruct the

employee to contact DHS through its toll-free hotline (as found on the referral letter) within eight Federal Government work days.

5. If the Employer finds a photo mismatch, the Employer must provide the photo mismatch tentative nonconfirmation notice and follow the instructions outlined in paragraph 1 of this section for tentative nonconfirmations, generally.

6. The Employer agrees that if an employee contests a tentative nonconfirmation based upon a photo mismatch, the Employer will send a copy of the employee's Form I-551, Form I-766, U.S. Passport, or passport card to DHS for review by:

a. Scanning and uploading the document, or

b. Sending a photocopy of the document by express mail (furnished and paid for by the employer).

7. The Employer understands that if it cannot determine whether there is a photo match/mismatch, the Employer must forward the employee's documentation to DHS as described in the preceding paragraph. The Employer agrees to resolve the case as specified by the DHS representative who will determine the photo match or mismatch.

8. DHS will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary.

9. While waiting for case results, the Employer agrees to check the E-Verify system regularly for case updates.

ARTICLE IV
SERVICE PROVISIONS

A. NO SERVICE FEES

1. SSA and DHS will not charge the Employer for verification services performed under this MOU. The Employer is responsible for providing equipment needed to make inquiries. To access E-Verify, an Employer will need a personal computer with Internet access.

ARTICLE V
MODIFICATION AND TERMINATION

A. MODIFICATION

1. This MOU is effective upon the signature of all parties and shall continue in effect for as long as the SSA and DHS operates the E-Verify program unless modified in writing by the mutual consent of all parties.

2. Any and all E-Verify system enhancements by DHS or SSA, including but not limited to E-Verify checking against additional data sources and instituting new verification policies or procedures, will be covered under this MOU and will not cause the need for a supplemental MOU that outlines these changes.

B. TERMINATION

1. The Employer may terminate this MOU and its participation in E-Verify at any time upon 30 days prior written notice to the other parties.

2. Notwithstanding Article V, part A of this MOU, DHS may terminate this MOU, and thereby the Employer's participation in E-Verify, with or without notice at any time if deemed necessary because of the requirements of law or policy, or upon a determination by SSA or DHS that there has been a breach of system integrity or security by the Employer, or a failure on the part of the Employer to comply with established E-Verify procedures and/or legal requirements. The Employer understands that if it is a Federal contractor, termination of this MOU by any party for any reason may negatively affect the performance of its contractual responsibilities. Similarly, the Employer understands that if it is in a state where E-Verify is mandatory, termination of this by any party MOU may negatively affect the Employer's business.

3. An Employer that is a Federal contractor may terminate this MOU when the Federal contract that requires its participation in E-Verify is terminated or completed. In such cases, the Federal contractor must provide written notice to DHS. If an Employer that is a Federal contractor fails to provide such notice, then that Employer will remain an E-Verify participant, will remain bound by the terms of this MOU that apply to non-Federal contractor participants, and will be required to use the E-Verify procedures to verify the employment eligibility of all newly hired employees.

4. The Employer agrees that E-Verify is not liable for any losses, financial or otherwise, if the Employer is terminated from E-Verify.

ARTICLE VI
PARTIES

A. Some or all SSA and DHS responsibilities under this MOU may be performed by contractor(s), and SSA and DHS may adjust verification responsibilities between each other as necessary. By separate agreement with DHS, SSA has agreed to perform its responsibilities as described in this MOU.

B. Nothing in this MOU is intended, or should be construed, to create any right or benefit, substantive or procedural, enforceable at law by any third party against the United States, its agencies, officers, or employees, or against the Employer, its agents, officers, or employees.

C. The Employer may not assign, directly or indirectly, whether by operation of law, change of control or merger, all or any part of its rights or obligations under this MOU without the prior written consent of DHS, which consent shall not be unreasonably withheld or delayed. Any attempt to sublicense, assign, or transfer any of the rights, duties, or obligations herein is void.

D. Each party shall be solely responsible for defending any claim or action against it arising out of or related to E-Verify or this MOU, whether civil or criminal, and for any liability wherefrom, including (but not limited to) any dispute between the Employer and any other person or entity regarding the applicability of Section 403(d) of IIRIRA to any action taken or allegedly taken by the Employer.

E. The Employer understands that its participation in E-Verify is not confidential information and may be disclosed as authorized or required by law and DHS or SSA policy, including but not limited to,

Congressional oversight, E-Verify publicity and media inquiries, determinations of compliance with Federal contractual requirements, and responses to inquiries under the Freedom of Information Act (FOIA).

F. The individuals whose signatures appear below represent that they are authorized to enter into this MOU on behalf of the Employer and DHS respectively. The Employer understands that any inaccurate statement, representation, data or other information provided to DHS may subject the Employer, its subcontractors, its employees, or its representatives to: (1) prosecution for false statements pursuant to 18 U.S.C. 1001 and/or; (2) immediate termination of its MOU and/or; (3) possible debarment or suspension.

G. The foregoing constitutes the full agreement on this subject between DHS and the Employer.

To be accepted as an E-Verify participant, you should only sign the Employer's Section of the signature page. If you have any questions, contact E-Verify at 1-888-464-4218.

Company ID Number: 1622938

Approved by:

Employer CC Control Corp	
Name (Please Type or Print) Colleen McKenna	Title
Signature Electronically Signed	Date 01/04/2021
Department of Homeland Security – Verification Division	
Name (Please Type or Print) USCIS Verification Division	Title
Signature Electronically Signed	Date 01/04/2021

E-Verify

Company ID Number: 1622938

Information Required for the E-Verify Program **Information relating to your Company:**	
Company Name	CC Control Corp
Company Facility Address	5760 Corporate Way West Palm Beach, FL 33407
Company Alternate Address	
County or Parish	PALM BEACH
Employer Identification Number	650344348
North American Industry Classification Systems Code	334
Parent Company	
Number of Employees	20 to 99
Number of Sites Verified for	1 site(s)

E-Verify

Company ID Number: 1622938

Are you verifying for more than 1 site? If yes, please provide the number of sites verified for in each State:

FL	1

E-Verify

Company ID Number: 1622938

Information relating to the Program Administrator(s) for your Company on policy questions or operational problems:

Name	Colleen McKenna
Phone Number	5612933975101
Fax	5612933976
Email	cmckenna@cccontrolcorp.com

Company ID Number: 1622938

This list represents the first 20 Program Administrators listed for this company.

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.

CC Control Corp

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.

5760 Corporate Way

6 City, state, and ZIP code

West Palm Beach, FL. 33407

Requester's name and address (optional)

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

6	5	-	0	3	4	4	3	4	8

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 ▶ [signature] Date ▶ 01/19/2022

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.*

RESOLUTION NO. 2022-084

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA; ALLOWING FOR FILTER PRESS PROGRAMMABLE LOGIC CONTROL UPGRADES; AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT TO C.C. CONTROL COPORATION, ISSUE THE PURCHASE ORDER, AND APPROVE ANY CHANGE ORDERS NOT TO EXCEED $21,405 RELATED TO THE COMPLETION OF THE PROJECT; THE TOTAL AMOUNT BUDGETED FOR THE PROJECT $164,105; 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 August 23, 2022, the City Council authorized the City Manager to proceed with the Filter Belt Press Programmable Logic Control (PLC) Upgrades at 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 to the primary construction contract and any additional service contracts related to the construction project regarding the Filter Belt Press Programmable Logic Control (PLC) Upgrades at the Dyal WTP, provided the total

amount $21,405 of approved change orders and any additional service contracts do not cause the construction budget to exceed the total $164,105 budgeted by the City Council for the project.

(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 the 23rd day of August 2022.

_____
Michael C. Blake, Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk

CITY OF COCOA
CONSTRUCTION CONTRACT

B-22-14-COC

Filter Belt Press Programmable Logic Control (PLC) Upgrades at the Dyal WTP

PURCHASING DEPARTMENT
65 Stone Street • Cocoa, FL 32922
PHONE: (321) 433-8833
FAX: (321) 433-8685
EMAIL: PURCHASING@COCOFL.ORG

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CONSTRUCTION AGREEMENT
B-22-14-COC

THIS AGREEMENT is made this ____ day of August, 2022 by and between the **CITY OF COCOA**, a Florida municipal corporation (herein referred to as OWNER) and **C.C. CONTROL CORPORATION**, 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 Upgrade of the Filter Belt Press Programmable Logic Control (PLC) at the Dyal Water Treatment Plant ("the Project").

2. **CONTRACT DOCUMENTS** - The Contract Documents consist of this Agreement; Exhibits and Addendum(s) to the Agreement; ITB Documents issued by the City, published on May 6, 2022; Contractor's Bid Submittal, dated June 29, 2022; 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-22-14-COC issued by the City of Cocoa dated May 6, 2022, including subsequently issued Addenda 1-3.

g. Contractor's Bid Submittal

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 two hundred and forty (240) 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** for each calendar day that expires after the time specified in Paragraph 6 for substantial completion until the work is substantially complete and **$50** 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 **One Hundred Forty-Two Thousand Seven Hundred Dollars ($142,700.00)**. 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 the City of Cocoa **Accounts Payable**, 65 Stone Street, Cocoa, Florida, 32922 as the agent or office to which the CONTRACTOR must submit payment requests or invoices to OWNER. The OWNER further hereby identifies Andrew Lynch, SCADA Systems Analyst or authorized representative 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, Sean McFarland 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.

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 $1,000,000 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 $1,000,000 for all of its employees performing Work for the OWNER pursuant to this Agreement.

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: C.C. Control Corporation
Attn: Luis L: Garcia
Address: 5760 Corporate Way
West Palm Beach FL 33407
Phone: (561) 293-3975
Email: lgarcia@cccontrolcorp.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.

CITY OF COCOA

By: _____
Stockton Whitten, City Manager

Date: _____

ATTEST:

_____
Carie Shealy, City Clerk

CONTRACTOR

CC Control Corp

By: _____
Print name/title: Luis L Garcia President

Date: 07/29/2022

STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me by means of (X) physical presence or (___) online notarization, this 29 day of July, 20 22, by Luis L Garcia, the President of CC Control Corp, who is personally known to me or who produced N/A as identification and who did take an oath.

Colleen McKenna
Notary Public, State of Florida
My Comm. Expires 10/17/2023
Commission No. GG346781

_____
(Notary Public Signature)

Colleen McKenna
(Print Name)
Notary Public, State of Florida
Commission No.: GG346781
My Commission Expires: 10/17/2023

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_____

Legislation Details (With Text)

File #:	22-494	**Version:**	1	**Name:**	
Type:	Contract			**Status:**	Consent Agenda
File created:	8/12/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Approval for the City to apply for Save Our Indian River Lagoon (SOIRL) tax cost-share funds for an estimated amount of $24,500 to install floating wetlands at the N Fiske Blvd. Stormwater Pond. (Public Works Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Grant - SOIRL N. Fiske Floating Wetlands Agenda Date 8-23-22.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 12, 2022
Agenda Date: August 23, 2022
Prepared By: Abigail Morgan, P.E., Assistant City Engineer
Through: Bryant Smith III, P.E., CFM, Public Works Director/City Engineer
Requested Action:
Approval for the City to apply for Save Our Indian River Lagoon (SOIRL) tax cost-share funds for an estimated amount of $24,500 to install floating wetlands at the N Fiske Blvd. Stormwater Pond.

BACKGROUND:

Grant funding is available for local governments, organizations and Brevard residents for eligible projects funded by the Save Our Indian River Lagoon Project Plan (SOIRLPP). Projects submitted will be reviewed by the Citizen Oversight Committee to evaluate the potential for inclusion in the plan. The projects recommended by the Citizen Oversight Committee for inclusion in the plan will be presented to the Brevard County Board of County Commissioners for approval. Stormwater Projects are eligible for Save Our Indian River Lagoon Trust Fund contributions.

The City will be applying for the eligible Tax Funding Cost-Share for the N Fiske Blvd. Stormwater Pond Floating Wetlands Project. The reimbursement amount is based on the annual reduction of pounds of Nitrogen to the Indian River Lagoon. Staff estimates the funding amount to be about $24,500. This figure may change based on actual lab results with pounds of Nitrogen reduced.

STRATEGIC PLAN CONNECTION:

Adding Floating Wetlands to Existing Stormwater Ponds Project as a water quality project in the City

Stormwater Master Plan.

BUDGETARY IMPACT:

Budgeted No

No budgetary impact at this time. Impact will be realized at the time of Grant Award and a Budget Amendment will be submitted to City Council at that time for review and approval.

If awarded, (end of FY22, the City will complete the project in one year)

Fund Balance: The Match would be funded with Stormwater Funds.
Source of Funds: Grant Source: SOIRL Tax Cost-Share Funds.

PREVIOUS ACTION:

None

RECOMMENDED MOTION:

Approval for the City to apply for Save Our Indian River Lagoon (SOIRL) tax cost-share funds for an estimated amount of $24,500 to install floating wetlands at the N Fiske Blvd. Stormwater Pond.

INTERNAL GRANT APPLICATION FORM

Completed and Signed Copy of this Form **Must Be Attached** to all Grant Agenda Items

DEPARTMENT: Public Works	**DIVISION:** 3570 Stormwater
POINT OF CONTACT: Bryant Smith	**PROJECT MANAGER:** Abby Morgan
NAME OF GRANT: FDEP Resilient Florida Grant - Dixon Blvd. at Indian River Drive Water Quality and Resiliency Project	
CFDA#/CFSA#: 37.908	**FUNDING AGENCY:** FDEP
AMOUNT REQUESTED: $ 1,750,000	**GRANT DUE DATE:** 09/01/2022

PROJECT DESCRIPTION:

Dixon Blvd. at Indian River Drive Water Quality and Resiliency Project - This project will provide stormwater treatment and resiliency at Dixon and Indian River Drive (IRD). The project will 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 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. This should provide treatment to two or more direct outfalls, out of the over 65 within the City of Cocoa, to the Indian River. This project helps to address four of the CCMP Vitals, which are listed in the table above. 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 is currently underway. The requested FDEP Resilient Florida Grant funding within this proposal is for the Implementation (construction) part of the project in FY 23-24.

MATCH REQUIRED: Yes **(IF YES, HOW MUCH :) $** 1,750,000	**TARGET DATE TO COUNCIL:**
REIMBURSEMENT GRANT: Yes	**REIMBURSEMENT SCHEDULE:** Completion of Construction

WHAT ARE THE REPORTING REQUIREMENTS?

Reporting requirements to be detailed in description of award contract.

FUTURE REQUIREMENTS TO CONSIDER:

N/A

_____
Department Director

_____
Grants Administrator

_____
Deputy Finance Director

_____
Finance Director

_____
City Manager

Legislation Details (With Text)

File #:	22-497	**Version:** 1	**Name:**		
Type:	Contract		**Status:**	Consent Agenda	
File created:	8/15/2022		**In control:**	City Council	
On agenda:	8/23/2022		**Final action:**		
Title:	Council approval for the City to apply for the Resilient Florida Grant funds in the amount of $100,000 for the Cocoa Coastline Stormwater Nutrient Removal Planning Study. (Public Works Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Internal Grant Application - Cocoa's Coastline Stormwater Nutrient Removal Study_CM signed				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 15, 2022
Agenda Date: August 23, 2022
Prepared By: Abigail Morgan, P.E., Assistant City Engineer
Through: Bryant Smith III, P.E., CFM, Public Works Director/City Engineer
Requested Action:
Council approval for the City to apply for the Resilient Florida Grant funds in the amount of $100,000 for the Cocoa Coastline Stormwater Nutrient Removal Planning Study.

BACKGROUND:

Cocoa's coastline has over 65 stormwater outfalls. The City of Cocoa is looking to perform a nutrient loading study related to the various direct outfalls into the Indian River Lagoon from the City of Cocoa's Stormwater System. The City of Cocoa outfalls for this effort that directly discharge into the Indian River Lagoon range from 4" to 72" diameter pipes. Many of these outfalls come from a variety of land use designations and the nutrient loading likely varies from outfall to outfall.

As part of this project, the consultant will separate each of the larger outfalls into an individual basin to provide estimated nutrient loading (Total Nitrogen and Total Phosphorus) entering the lagoon from each discharge point. Along with this study, the consultant will provide a recommended nutrient removal solution at each study location, estimated nutrient reduction, design and construction estimate, and cost per pound of nitrogen and phosphorus removed.

There may be some locations where discharge points can be combined into one discharge point as well. These locations can be provided as secondary recommendations, but with the narrow right-of-ways within Indian River Drive and lack of easements, there may not be ample opportunities for this. The end result of this study is to provide the City with a plan to maximize nutrient reduction into the Indian River and prioritize locations based on existing loading and cost.

The amount of the grant being applied for is $100,000. There is no match required for this grant.

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

No budgetary impact at this time.

If awarded the Planning part of the Resilient Florida Grant funds, (end of FY23, the City will complete the study in one year)

Fund Balance: There is a zero-match requirement for this funding.
Source of Funds: Grant Source: 100% funded by Resilient Florida Grant

PREVIOUS ACTION:

None

RECOMMENDED MOTION:

Council approval for the City to apply for the Resilient Florida Grant funds in the amount of $100,000 for the Cocoa Coastline Stormwater Nutrient Removal Planning Study.

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Legislation Details (With Text)

File #:	22-509	**Version:**	1	**Name:**	
Type:	Informational Item			**Status:**	Consent Agenda
File created:	8/18/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Approval of the requested Pay Plan changes for Fiscal Year 2022. (Administrative Services Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	FY 2022 Pay Plan revised with PIC.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 18, 2022
Agenda Date: August 23, 2022
Prepared By: Lorne Stinnett, Human Resources Manager
Through: Tammy Gemmati, Administrative Services Director
Requested Action:
Approval of the requested Pay Plan changes for Fiscal Year 2022.

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 Manager has approved the following changes to the City's pay plan:

Current Position	Position Change
Digital Communications Coordinator (GE9)	Public Information Coordinator (GE10)

This request will not increase the City's headcount that was approved in the annual Fiscal Year 2022 Budget. The job requirements the Digital Communication Coordinator position have been modified to increase the scope of responsibilities. The position title has changed to Public Information Coordinator and the pay grade has been increased to better align this role in the City of Cocoa pay plan. 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	N/A
If not budgeted, is amendment/transfer attached?	Choose an item.

PREVIOUS ACTION:

At the City Council Meeting on March 22, 2022, City Council approved a revised Fiscal Year 2022 Pay Plan.

RECOMMENDED MOTION:

Approval of the requested Pay Plan changes for Fiscal Year 2022.

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

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	$25.90	$41.44	$ 67,340.00	$ 107,744.00	District Fire Chief

** Annual rates are divisible by 2600

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 Servce 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

City Council Approval 3-22-2022

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	School Crossing Guard (Part Time)
2	$13.50	$21.60	$ 28,080.00	$ 44,928.00	
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) Office Assistant 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 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 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 Development Coordinator Executive Secretary Fire Inspector Junior Staff Accountant Jr. Buyer & Contract Specialist Utilities GIS/CAD Technician Leisure Services Coordinator Payroll Specialist

City Council Approval 3-22-2022

General - NonExempt "GH" (Hourly) - Open Range Plan

	Hourly		Annually		
Grade	Minimum	Maximum	Minimum	Maximum	Positions
10	$24.99	$39.99	$ 51,979.20	$ 83,179.20	Grounds Maintenance 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

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 Criminal Intelligence Analyst Redevelopment Coordinator Victim Advocate Coordinator
					Fiscal Analyst - Budget
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 Grant Staff Accountant Inspection Supervisor Senior Buyer & Contracts Agent Staff Accountant Staff Accountant - Bank/Treasury Support Service Supervisor Systems Administrator Utility Billing Supervisor Human Resources Coordinator
12	$29.15	$46.65	$ 60,632.00	$ 97,032.00	Accounting Supervisor 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 Planner Technical Services Supervisor
13	$31.48	$50.38	$ 65,478.40	$ 104,790.40	Code Enforcement Manager Engineering Supervisor Housing Program Manager 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

City Council Approval 3-22-2022

General - Exempt "GE" (Salary) - Open Range Plan

	Hourly		Annually		
Level	**Minimum**	**Maximum**	**Minimum**	**Maximum**	**Positions**
					Human Resources Manager Planning & Zoning Manager Police Lieutenant (IA) Purchasing/Contract Manager Senior Network & Security Administrator Streets/Stormwater 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 Utilities Director Building Official ~~Deputy Director Community Services~~ Deputy Finance Director Deputy Fire Chief Utilities Senior Engineer Police Commander
17	$45.61	$72.98	$ 94,868.80	$ 151,798.40	Administrative Services Director Community Services Director Chief Technology Officer Economic and Growth Development 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

Legislation Details (With Text)

File #:	22-486	**Version:**	1	**Name:**	
Type:	Contract			**Status:**	Multi-Year Contract
File created:	8/11/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Approve a multi-year contract for banking services with Truist Bank (Formerly Suntrust Bank) piggy-backing off the Marion County Clerk of Circuit Court contract RFP12C-183 and authorize the City Manager to sign all the necessary documents. Further, if required by the bank, authorize the City Manager to approve a banking resolution with the advice of the City Attorney and authorize the Mayor to execute said resolution, if necessary. (Finance Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Marion CO Truist Agreement thru August 2025.pdf Partially Executed Piggyback Agreement08-22.pdf City of Cocoa Banking Extension Contract eff Sept 2022.pdf City of Cocoa Treasury Mgt Master 8 2022.pdf Proforma Operating Account 9-1-22.pdf truist-treasury-terms-conditions 2022.pdf SIGNED E-Verify Affidavit.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 11, 2022
Agenda Date: August 23, 2022
Prepared By: Rebecca Bowman, Finance Director, MBA, CGFO, CGFM
Through: Stockton Whitten, City Manager
Requested Action:
Approve a multi-year contract for banking services with Truist Bank (Formerly Suntrust Bank) piggy-backing off the Marion County Clerk of Circuit Court contract RFP12C-183 and authorize the City Manager to sign all the necessary documents. Further, if required by the bank, authorize the City Manager to approve a banking resolution with the advice of the City Attorney and authorize the Mayor to execute said resolution, if necessary.

BACKGROUND:

Since October, 1997, the City has used Suntrust Bank (Now Truist Bank) for banking services. The City Council approved piggyback off the Marion County Clerk of Circuit Court contract RFP12C-183 on February 10, 2015 for banking services that expired August 31, 2017. Agenda Item #18-604 was approved by City Council on 11/28/2018 to further piggyback off of the Marion County Clerk of Court banking contract with Suntrust. The current contract expires on August 31,2022. Staff sought a

competitively bid contract to piggyback off of to replace the current contract and determined that the Marion County Clerk of Court contract best met the current services that the City of Cocoa uses for banking. Marion County Clerk of Court renegotiated the existing contract through 2025. The earnings credit rate is now 90 basis points which is advantageous in rising market rates. The earnings credit rate offsets banking fees charged. The interest rate is variable, at 50% of the federal credit rate. That rate is currently set at 125 basis points. The historical interest earnings have exceeded the banking fees; therefore, no budget is necessary for the banking fees. The contract extension will be effective October 1, 2022 through September 30, 2025.

STRATEGIC PLAN CONNECTION:

Fiscal Sustainability Goal 1: Maintain long term fiscal sustainability. Objective 1.1 Maintain and control the expenditure levels, and reduce when appropriate, while not substantially affecting the levels of service.

BUDGETARY IMPACT:

Budgeted	Choose an item.
If not budgeted, is amendment/transfer attached?	Choose an item.

Amount Requested	$
Account Number	_
Account Name	_

Source of Funds:

PREVIOUS ACTION:

The City Council approved piggyback off the Marion County Clerk of Circuit Court contract RFP12C-183 on November 28, 2018 via agenda item # 18-604 for banking services.

RECOMMENDED MOTION:

Approve a multi-year contract for banking services with Truist Bank (Formerly SunTrust Bank) piggy-backing off the Marion County Clerk of Circuit Court contract RFP12C-183 and authorize the City Manager to sign all the necessary documents. Further, if required by the bank, authorize the City Manager to approve a banking resolution with the advice of the City Attorney and authorize the Mayor to execute said resolution, if necessary.

200 West Forsyth Street, Floor 5
Jacksonville, Florida 32202
Office: 904.632.2599
Mobile: 904.673.3608
lisa.c.hayes@truist.com

Lisa C. Hayes
Senior Vice President
Middle Market Banking Group

August 9, 2022

Gregory C. Harrell
Clerk of Court and Comptroller - Marion County, Florida
110 NW 1st Avenue
Ocala, Florida 34475

RE: Agreement for Banking Services between Clerk of Court and Comptroller and Marion County Board of County Commissioners ("County") and Truist Bank ("Truist") dated September 1, 2022

Dear Mr. Harrell:

Thank you for continuing to choose Truist for your deposit and treasury services. We appreciate the opportunity to maintain a meaningful partnership with you over the coming years. Truist Bank is pleased to submit the attached proforma with the service pricing and rates. The proposal has been developed through a review of current government contracts across the state of Florida and an in-depth review of Marion County.

Your service level pricing as shown in the attached pro forma is effective for a term of three (3) years commencing September 1, 2022, for a thirty-six (36) month term through August 31, 2025. Within the pro forma, we have included "Additional Potential Fees" that may be used with services provided with indicative pricing. The Additional Potential Fees are provided for reference and are not part of the committed pricing.

The rates and pricing disclosed herein will apply to all applicable deposit and group accounts which are currently open, as shown below. Rates and pricing for accounts not included below or opened later may vary. For additional details on rate calculations, eligible balances, or terms and conditions, please contact your Relationship Manager or Treasury Consultant.

Pro Forma 69626 will apply to all Public Fund Analyzed Interest Checking accounts within:

- Group Account *6260: Combined Public Fund Analyzed Checking

Earnings Credit Rate (ECR): 90 basis points (bps)
Truist offers several deposit products that offer ECR. Truist's monthly account analysis processing system allows fees for account-related and treasury management services to be offset by an earnings credit allowance generated by an ECR. See Truist's Commercial Bank Services Agreement to obtain information about the ECR calculations and the crediting of ECR to the account. We are offering a fixed ECR of 90 bps on the Public Fund Analyzed Interest Checking accounts within the Combined Analysis Group through August 2025, after which the ECR will be a managed rate and subject to change at any

time at the Bank's discretion without notice, and may be a rate of zero. ECR for any other accounts will not be fixed and will be subject to change at any time at the Bank's discretion without notice.

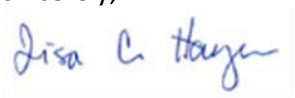
Interest Rate (IR): As of August 9, 2022, 125 basis points (bps), as adjusted
The stated interest rates will apply only to the Public Fund Analyzed Interest Checking accounts within Group Account *6260. See Truist's Commercial Bank Services Agreement to obtain information about the interest calculations and the crediting of the interest to the account. We are offering an interest rate equal to 50% of the top end of the Fed Fund target range. As of August 9, 2022, the top range of Fed Funds target is 250 bps, therefore the effective rate would be 125 bps. This rate is offered through August 2025, after which the interest rate will be a managed rate and subject change at any time at the Bank's discretion without notice and may be a rate of zero. During the committed term, interest rate changes will be effective the following month after a Fed Fund rate move; these changes will occur without notice.

The pricing detailed in the attached pro forma and glossary includes the service description and unit cost of the services. Estimated volumes may be included in this disclosure based on the information you have shared with Truist regarding expected account usage. Your Account Analysis statement will show the actual volumes and associated charges from use of the services, in addition to other charges for services utilized that may have been previously disclosed. Changes to treasury services fees are applied to the entire month in which they are effective. Treasury services fees will be debited as one lump sum the month after transactions occur and will appear on your bank statement as Service Charges – Prior Period. Account Analysis statements are available by mail or electronic delivery methods.

Thank you for the years of shared business. We look forward to continuing to strategize with your team to structure innovative solutions to best position the County for the ever changing business and economic landscape.

Please sign below to confirm your acceptance of the extension.

Sincerely,



Lisa C. Hayes

Approval of Clerk of Court and Comptroller – Marion County, Florida

_____ _____
Gregory C. Harrell Date

Attached:

Master Agreement dated August 4, 2022
Proforma 69626
Proforma Glossary

Truist Pro Forma Account Analysis Statement

Pro Forma ID: 69626
Account Officer: Taylor,Bryan
Treasury Consultant: Roman, Maria

Effective 07/01/2022
Marion County BOCC/Clerk
Treasury Contract Extension
Deposit Account # TBD

Analyzed Interest Checking - Public Fund

Earnings Credit Summary

Average Ledger Balance	$113,312,896.65		
Less: Average Float	$16,767,719.60		
Average Collected Balance	$96,545,177.05	Earnings Credit Rate	0.900 %
Average Negative Collected Balance	$0.00	Earnings Credit Allowance	$73,797.55
Average Positive Collected Balance	$96,545,177.05	Less: Balance Based Charges	$12,289.15
Less 0.00% Related Reserves	$0.00		
Average Positive Balance Available	**$96,545,177.05**	**Total Analysis Based Charges**	$0.00
		ADD: Explicit & Billed Separately	$7.50
		ADD: Independent Account Service Charges	$0.00
		Total Service Charges for Period	$7.50

Interest Earnings Summary

Hybrid Solution	
Average Positive Available Balance	$96,545,177.05
Less: Bal Required for Analyzed Services	$16,077,203.41
Average Positive Net Available Balance	$80,467,973.64
Hybrid Interest Rate	1.250 %
Hybrid Estimated Interest Earned	$85,428.33
Total Estimated Interest Earned for Period	$85,428.33
Net Client Benefit	$85,420.83

Service Code	Service Description	Volume	Unit Price	Total Price
GENERAL BANKING SERVICES				
21	MONTHLY ACCT MAINTENANCE FEE	16	$8.000000	$128.00
100	CREDITS POSTED	517	$0.560000	$289.52
107	RLBX ON-US DEPOSITED ITEM	1,233	$0.070000	$86.31
109	RLBX TRANSIT DEPOSITED ITEM	6,663	$0.110000	$732.93
110	ITEMS DEPOSITED - ON-US	3	$0.080000	$0.24

The pricing detailed in this pro forma does not constitute a contractual offer of any particular service, price, rate or account type for any term. Estimated volumes may be included in this pro forma based on our assumptions or information shared with us. It is for purposes of estimation and discussion only unless accompanied by other agreements or commitments that offer explicit pricing or terms. Your Account Analysis statement will reflect the actual services, volumes and charges for the services utilized. Reviewing your Account Analysis statements with full line-item detail is recommended and those statements are available by mail or electronic delivery methods. Service descriptions and related information may change or be updated by Truist with or without notification. Any impacts to a client's pricing will be communicated in accordance with applicable banking agreements. If you have any questions or concerns about your actual pricing, please contact your Treasury Consultant. For a complete list of account related fees, the Truist Business Services Pricing Guide is available at www.truist.com/content/dam/truist-bank/us/en/documents/disclosures/commercial/business-deposits-fee-schedule.pdf

Service Code	Service Description	Volume	Unit Price	Total Price
GENERAL BANKING SERVICES				
112	ITEMS DEPOSITED - IN STATE	24	$0.080000	$1.92
114	ITEMS DEPOSITED - OTHER	9	$0.080000	$0.72
117	REMOTE DEPOSIT ITEM - ON-US	953	$0.080000	$76.24
119	REMOTE DEPOSIT ITEM - TRANSIT	6,651	$0.080000	$532.08
122	WLBX ON-US DEPOSITED ITEM	140	$0.115000	$16.10
124	WLBX TRANSIT DEPOSITED ITEM	1,532	$0.130000	$199.16
128	CHECKS PAID AND OTHER DEBITS	2,203	$0.050000	$110.15
385	COIN ORDER PER ROLL	44	$0.200000	$8.80
390	CURRENCY ORDER PER $1	270	$0.001300	$0.35
395	COIN AND CURRENCY DEPOSITED	5,098	$0.002500	$12.75
396	DEPOSIT CORRECTIONS	1	$5.000000	$5.00
1200	RDI SPECIAL HANDLING MAINT	9	$5.000000	$45.00
1205	RETURNED DEPOSITED ITEM FEE	10	$3.000000	$30.00
1210	REDEPOSIT (RECLEARED) RET ITEM	6	$3.000000	$18.00
			Subtotal:	**$2,293.27**
BALANCE RELATED SERVICES				
35	DEP ACCT USAGE RATE (PER $100)	113,312,896	0.000000	$0.00
			Subtotal:	**$0.00**
VAULT SERVICES				
1400	VAULT MONTHLY MAINTENANCE	4	$10.000000	$40.00
1401	CASH VAULT DEPOSITS	121	$0.600000	$72.60
1405	VAULT CASH DEPOSITED PER DOLLR	465,818	$0.000900	$419.24
			Subtotal:	**$531.84**
SPEC COLLECTION SERVICES				
491	RDC MONTHLY MAINT PER SCANNER	2	$15.000000	$30.00
			Subtotal:	**$30.00**
WIRE TRANSFER SERVICES				
2028	INCOMING DOMESTIC WIRE	46	$6.000000	$276.00
3585	TM DOMESTIC NON-REP WIRE	2	$5.000000	$10.00
3587	TM BOOK TRANSFER NON-REP	1	$5.000000	$5.00
			Subtotal:	**$291.00**
ACH SERVICES				
105	ACH RECEIVED CREDIT	945	$0.050000	$47.25
134	ACH RECEIVED DEBIT	74	$0.050000	$3.70
530	ACH NOTIFICATION OF CHANGE	16	$0.500000	$8.00
538	ACH RETURN TRANSACTION	20	$1.000000	$20.00
540	DT/DLTY ACH MONTHLY MAINT	3	$15.000000	$45.00
545	ACH INPUT FILE RECEIVED/TRANS	23	$5.000000	$115.00
553	TOTAL ACH ORIGINATED ITEMS [1-5000]	0	$0.030000	$0.00

Service Code	Service Description	Volume	Unit Price	Total Price
ACH SERVICES				
553	TOTAL ACH ORIGINATED ITEMS [5001-25000]	13,670	$0.030000	$410.10
553	TOTAL ACH ORIGINATED ITEMS [25001+]	0	$0.030000	$0.00
554	ACH ORIGINATED ADDENDA RECORD [1-5000]	16	$0.020000	$0.32
554	ACH ORIGINATED ADDENDA RECORD	0	$0.020000	$0.00
554	ACH ORIGINATED ADDENDA RECORD [25001+]	0	$0.020000	$0.00
1052	ACH POSITIVE PAY MONTHLY MAINT	16	$5.000000	$80.00
3319	TM ACH FILE UPLOAD	6	$5.000000	$30.00
3320	TM ACH BATCH PROCESSING FEE	11	$2.000000	$22.00
			Subtotal:	**$781.37**
EDI SERVICES				
1086	EDI MONTHLY MAINT RECEIVABLES	4	$0.000000	$0.00
1087	EDI TRANSACTION RECEIVABLES	280	$0.080000	$22.40
			Subtotal:	**$22.40**
ELECTRONIC LOCKBOX				
1062	ELEC LBX MONTHLY MAINTENANCE	1	$30.000000	$30.00
1066	ELEC LBX PER ITEM	0	$0.100000	$0.00
1143	ELEC LBX CUSTOM PROGRAMMING	0	$400.000000	$0.00
1144	ELEC LBX DATA TRANSMISSION	1	$40.000000	$40.00
			Subtotal:	**$70.00**
RECONCILIATION SERVICES				
334	PARTIAL RECON - ITEM	1,716	$0.030000	$51.48
338	PARTIAL RECON MAINT ELECTRONIC	4	$30.000000	$120.00
331	CD-ROM MAINTENANCE	2	$10.000000	$20.00
333	CD-ROM ITEMS	1,940	$0.030000	$58.20
335	CD-ROM DISC	2	$3.000000	$6.00
341	CD-ROM ADDITIONAL ACCT FEE	3	$3.000000	$9.00
			Subtotal:	**$264.68**
POSPAY/REVERSE POS PAY				
165	CHECK BLOCK	10	$10.000000	$100.00
4133	CPR/POS PAY/PAYEE-EXCEPTIONS	10	$5.000000	$50.00
4140	POSITIVE PAY - MAINTENANCE	1	$25.000000	$25.00
4145	CTRL/POS PAY WITH RECON ITEM	1,704	$0.020000	$34.08
4232	CPR POS PAY W RECON - MAINT	4	$120.000000	$480.00
			Subtotal:	**$689.08**
INFORMATION SERVICES				
3016	CONTROLLED DISB MAINT	4	$105.000000	$420.00
			Subtotal:	**$420.00**

Service Code	Service Description	Volume	Unit Price	Total Price
ONLINE COURIER SERVICES				
3961	OLC DDA STATEMENT	16	$0.500000	$8.00
3962	OLC ANALYSIS STATEMENT	1	$0.500000	$0.50
			Subtotal:	**$8.50**
TREASURY MANAGER				
3551	TM/OLC MAINTENANCE FEE	1	$10.000000	$10.00
3552	TM/OLC PRIOR DAY SERV/MONTH	1	$7.000000	$7.00
3553	TM/OLC PRIOR DAY/ACCOUNT	16	$7.000000	$112.00
3554	TM/OLC PRIOR DAY/DETAIL ITEM	4,124	$0.020000	$82.48
3555	TM/OLC CURRENT DAY SERV/MONTH	1	$7.000000	$7.00
3556	TM/OLC CURRENT DAY/ACCOUNT	16	$7.000000	$112.00
3557	TM/OLC CURRENT DAY/DETAIL ITEM	2,047	$0.020000	$40.94
3559	TM/OLC ACH-EDI REPORT	21	$0.100000	$2.10
3560	TM/OLC CAR REPORT	15	$0.100000	$1.50
3562	TM/OLC CPR REPORT(S)	42	$0.100000	$4.20
3564	TM ONLINE STOP PAYMENT	5	$10.000000	$50.00
3565	TM ACH MONTHLY MAINTENANCE	1	$10.000000	$10.00
3566	TM ACCOUNT TRANSFER	137	$0.250000	$34.25
3568	TM WIRE TRANSFER SERVICE/MONTH	1	$10.000000	$10.00
			Subtotal:	**$483.47**
CASH MANAGEMENT SERVICES				
850	ZBA MASTER ACCOUNT MAINTENANCE	2	$15.000000	$30.00
851	ZBA SUB ACCOUNT MAINTENANCE	7	$5.000000	$35.00
			Subtotal:	**$65.00**
WHOLESALE LOCKBOX				
7203	WLBX IMAGE ARCHIVE 1 YEAR	7,301	$0.040000	$292.04
7204	WLBX IMG ITEMS SCANNED	5,629	$0.100000	$562.90
7206	WLBX IMAGE CD ROM PER CD	1	$25.000000	$25.00
7207	WLBX CRRSPND BATCH MAINTENANCE	1	$50.000000	$50.00
7214	WLBX MAINTENANCE - MONTHLY	1	$210.000000	$210.00
7222	WLBX REJECTED ITEMS	13	$0.500000	$6.50
7241	LOCKBOX DEPOSITS	260	$0.900000	$234.00
7247	WLBX CREDIT CARD AUTH MONTHLY	1	$75.000000	$75.00
7259	WLBX REMITTER TABLE MAINT	1	$100.000000	$100.00
7264	WLBX IMAGE BATCH DOWNLOAD	2	$1.000000	$2.00
7279	WLBX STANDARD ITEM	1,672	$0.540000	$902.88
7307	WLBX SPECIAL HANDLING	1,672	$0.100000	$167.20
			Subtotal:	**$2,627.52**
RETAIL LOCKBOX				
7714	RLBX REJECTED ITEMS	10	$0.350000	$3.50
7719	RLBX MAINTENANCE - MONTHLY	1	$225.000000	$225.00

Service Code	Service Description	Volume	Unit Price	Total Price
RETAIL LOCKBOX				
7725	RLBX EXPRESS MAIL COURIER	1 P	CUSTOM	
7730	RLBX CASH PAYMENT PROCESS	1	$5.000000	$5.00
7732	RLBX DATA TRANS - PER FILE	21	$5.000000	$105.00
7745	RLBX LOW SPEED EXTRACTION	8,419	$0.150000	$1,262.85
7755	RLBX MULTIPLE PAYMENTS/COUPONS	758	$0.100000	$75.80
7756	RLBX PARTIAL PAYMENTS	692	$0.050000	$34.60
7760	RLBX CAPTURED ITEMS 5K-25K	8,515	$0.080000	$681.20
7762	RLBX IMAGE ARCHIVE 1 YEAR	16,414	$0.040000	$656.56
7772	RLBX IMAGE BATCH DOWNLOAD	1	$5.000000	$5.00
7775	RLBX FULL TEXT SEARCH	16,413	$0.040000	$656.52
			Subtotal:	**$3,711.03**
			Total Charges:	**$12,289.15**
			Total Balance Based Charges:	**$12,289.15**

Pass-Thru Fees *(included in balance based charge total)*

Service Code	Service Description	Volume	Unit Price	Total Price
7725	RLBX EXPRESS MAIL COURIER	1 P	CUSTOM	
			Total	**$0.00**

Explicit & Billed Separately *(not included in balance based charge total)*

Service Code	Service Description	Volume	Unit Price	Total Price
910	CHECK DRAWN ON CANADIAN BANK	1 E	7.500000	$7.50
			Total for Explicit & Billed Separately:	**$7.50**

Additional Potential Fees

The services and pricing listed in this section are features of the products implemented that may be available to you based on the implementation of the services requested in this Pro Forma.

Service Code	Service Description		Unit Price
WHOLESALE LOCKBOX			
7201	WLBX LITE ITEM OVERAGE [1-500]	050100	$0.000000
7201	WLBX LITE ITEM OVERAGE [501+]	050100	$2.500000
7045	WLB IMAGE MAINTENANCE FEE	05011R	$115.000000
7119	CORRESPONDENCE FIELD INDEXING	059999	$0.160000
7126	PDF UPLOAD	059999	$1.000000
7128	IMAGE TRANSMISSION OUTPUT	059999	$0.040000
7129	CUSTOM TRANSMISSION OUTPUT	059999	$0.300000
7205	WLBX IMG ITEMS SCANNED -COLOR	05011R	$0.250000

Additional Potential Fees

The services and pricing listed in this section are features of the products implemented that may be available to you based on the implementation of the services requested in this Pro Forma.

Service Code	Service Description		Unit Price
WHOLESALE LOCKBOX			
7208	WLBX IMG ITEMS TRANSMITTED	05011R	$0.040000
7209	WLBX ADDITIONAL DETAIL LISTING	050132	$1.000000
7212	WLBX IMAGE ARCHIVE 90 DAYS	05011R	$0.075500
7213	WLBX ITEM COPIES	05011A	$0.125000
7215	WLBX NON-STANDARD BATCH SIZE	050111	$0.150000
7216	WLBX FULL TEXT SEARCH	05011R	$0.050000
7217	WLBX MANUAL REMITTER KEYING	050126	$0.012000
7221	WLBX SPECIAL SCREENING	05011P	$0.165000
7223	WLBX CHECK MICR LINE CAPTURE	050121	$0.080000
7225	WLBX PROGRAM SETUP NON-COMPLEX	050137	$1520.000000
7226	WLBX PROGRAM SETUP COMPLEX	050137	$3050.000000
7229	WLBX VERIFY > 20 PAYEES	050131	$0.137000
7230	WLBX VERIFY 16-20 PAYEES	050131	$0.086500
7231	WLBX VERIFY 11-15 PAYEES	050131	$0.048500
7232	WLBX SPECIAL ENDORSEMENT ITEM	05011C	$0.100000
7233	WLBX NONSTANDARD REASSOCIATION	050134	$0.110000
7234	WLBX PAID-IN-FULL REVIEW	05011N	$0.106500
7237	WLBX REMIT BALANCING	059999	$1.000000
7238	WLBX FACSIMILE - PER FAX	050321	$16.000000
7239	WLBX IMG BROWSER-1ST LBX	05011R	$150.000000
7240	WLBX IMG BROWSER-ADD'L LBX	05011R	$40.000000
7245	WLBX LOCKBOX PROGRAMMING	050137	$110.000000
7246	WLBX PHOTOCOPY REQUEST	059999	$10.000000
7248	WLBX CREDIT CARD AVS -PER ITEM	05013A	$0.700000
7249	WLBX CREDIT CARD - ITEM	05013A	$0.450000
7251	WLBX CASH PAYMENT PROCESS	059999	$5.000000
7258	WLBX IMAGE TRANSMISSION- FILE	05011R	$15.000000
7261	WLBX IMAGE DVD	050423	$65.000000
7263	WLBX IMAGE PER DUPLICATE CD	050423	$50.000000
7265	WLBX IMAGE ARCHIVE 2-4 YRS	05011R	$0.312000
7266	WLBX IMAGE ARCHIVE 5-7 YRS	05011R	$0.428000
7267	WLBX IMAGE ARCHIVE 8-11 YRS	05011R	$0.470000
7268	WLBX IMG TRANSMISSION SET-UP	05011R	$2300.000000
7269	WLBX VIRTUAL CD MONTHLY MAINT	05011R	$20.000000
7272	WLBX ONLINE DECISION PER DOC	059999	$0.500000
7274	WLBX DATA TRANS - PER FILE	050401	$13.000000
7280	WLBX STANDARD REASSOCIATION	050117	$0.250000
7281	WLBX ITEM PRINT	05011A	$0.200000
7284	WLBX FOREIGN ITEM PROCESSING	050105	$1.500000
7289	WLBX FX PREFERRED RATE	059999	$44.520000
7290	WLBX CREDIT CARD AUTH REDACT	05013A	$0.083000
7291	WLBX CREDIT CARD REJECTS	05013A	$0.124500
7292	WLBX CC COBS REDACT AND IMAGE	05013A	$0.160000
7294	WLBX COBS CUSTOM SORT	05011R	$0.095000

Additional Potential Fees

The services and pricing listed in this section are features of the products implemented that may be available to you based on the implementation of the services requested in this Pro Forma.

Service Code	Service Description		Unit Price
WHOLESALE LOCKBOX			
7302	WLBX CREATE IMAGE CD/DVD	050423	$350.000000
7304	WLBX CUSTOM STAMPING	05011D	$0.120000
7305	WLBX DOCUMENT NOTATION	050116	$0.070000
7306	WLBX NON-STANDARD DOCUMENT	059999	$0.050000
7308	WLBX RECAP SHEET-CUSTOM REPORT	059999	$0.500000
7316	TMG LBX DATA ENTRY	050100	$0.450000
EDI SERVICES			
1085	EDI IMPLEMENTATION RECEIVABLES	300340	$500.000000
1090	CHECK PRINTING FEE	309999	$0.700000
1091	CHECK ADDITIONAL PAGES	309999	$0.200000
1093	CHECK PULLS	309999	$20.000000
1094	CHECK BATCH-BUNDLE	309999	$10.000000
1301	EDI REPORTING IMP FEE	300340	$50.000000
1302	EDI REPORTING MAINTENANCE	300020	$125.000000
1303	EDI REPORTING PER ITEM FEE	300505	$0.750000
1330	EDI IMPLEMENTATION CHECK ISSUE	309999	$0.000000
1331	EDI MONTHLY MAINT CHECK ISSUE	309999	$125.000000
1332	EDI TRANSACTION CHECK ISSUE	309999	$0.400000
1335	EDI IMPLEMENT REASSOCIATION	309999	$0.000000
1336	EDI MONTHLY MAIN REASSOCIATION	309999	$125.000000
1337	EDI TRANSACTION REASSOCIATION	309999	$0.400000
1340	EDI IMPLEMENTATION RETURNS	309999	$0.000000
1341	EDI MONTHLY MAINT RETURNS	309999	$125.000000
1342	EDI TRANSACTION RETURNS	309999	$0.400000
1371	CUSTOM FILE MAP IMP-PAYABLES	300510	$0.000000
1372	CONSOL PAY RECON FILE-MAINT	300510	$150.000000
1561	CUSTOM FILE MAP IMP-RECEIVABLE	300213	$125.000000
1092	CHECK POSTAGE FREIGHT	309999	$0.000000
1096	CHECK ADDITIONAL INSERT	309999	$0.000000
1106	EDI DATA TRANSMISSION VIA VAN	300102	$0.000000
1083	EDI PROGRAMMING	300302	$150.000000
ELECTRONIC LOCKBOX			
1140	ELEC LBX PER ITEM MULTI DDA	310101	$0.140000
1141	ELEC LBX PER ITEM VALIDATION	310103	$0.140000
1142	ELEC LBX PER ITEM MULTI/ VALID	310201	$0.150000
1145	ELEC LBX WEB EXCEPTIONS	310113	$50.000000
1063	ELEC LBX STOP FILE MAINT	059999	$100.000000
ACH SERVICES			
1185	IAT ORIG TRANS	250102	$0.180000
1186	IAT RETURN TRANSACTIONS	250302	$5.000000
3314	DLTY ACH BATCH	250500	$12.000000
3315	DLTY ACH ORIG TRANS BUSBANKING	250102	$1.750000

Additional Potential Fees

The services and pricing listed in this section are features of the products implemented that may be available to you based on the implementation of the services requested in this Pro Forma.

Service Code	Service Description		Unit Price
ACH SERVICES			
3316	SAME DAY ACH ORIG TRANSACTION	250102	$1.000000
3318	DLTY SDA ORIG TRANS BUSBANKING	250102	$2.750000
528	ACH RETURN FILE SET UP	251000	$0.000000
529	ACH RETURN FILE MONTHLY MAINT	250400	$50.000000
532	ACH RETURN NOC-FAX/EMAIL/ONL	250401	$3.000000
533	ACH RE-PRESENTMENT	250310	$4.000000
534	ACH ACTIVITY REPORT	250701	$0.000000
535	ACH UNAUTHORIZED RETURNS	250302	$0.000000
541	ACH INPUT FILE RECEIVED/VENDOR	250501	$17.500000
542	DLTY ACH MONTHLY MAINT PREMIUM	250000	$50.000000
552	ACH TRANSMISSION SET UP	251000	$200.000000
557	ACH FILE DATA TRANS TO CLIENT	400100	$12.000000
558	PREFUNDED ACH UNAVAIL BALANCE	259999	$0.000000
1050	ACH AUTHORIZATION RECORD	251051	$8.000000
1051	ACH BLANKET BLOCK MAINTENANCE	251052	$20.000000
1055	UPIC MONTHLY MAINTENANCE	259999	$20.000000
VAULT SERVICES			
1404	VAULT DEP ENVELOPE PROCESSING	100104	$1.000000
1407	VAULT DEPOSIT CORRECTION	100152	$7.500000
1408	VAULT SMARTSAFE DEP CREDIT	100102	$0.001200
1410	VAULT DEPOSIT ITEMS - ON-US	100103	$0.150000
1411	VAULT DEPOSIT ITEMS IN-STATE	100103	$0.150000
1412	VAULT DEP ITEMS - OTHER	100103	$0.150000
1415	VLT COIN DEPOSIT STANDARD BAG	100113	$2.000000
1416	VLT COIN DEPOSIT NON-STND BAG	100111	$5.000000
1417	VAULT COIN DEPOSIT SUB TO CNT	100112	$5.000000
1420	VAULT CHG ORDR STANDARD	10014A	$4.000000
1421	VAULT CHG ORDR NONSTANDARD	100140	$8.000000
1422	VAULT CHG ORDR LATE	100143	$35.000000
1425	VAULT CURRENCY ORDERED	100148	$0.001000
1427	VAULT ROLLED COIN ORDER	100144	$0.120000
1428	VAULT BOX COIN ORDER	100146	$4.000000
1429	VAULT ACCELERATED CASH CREDIT	100154	$0.001200
1433	VLT IFS DTS SUPPORT - DEPOSITS	100154	$3.500000
1434	VLT IFS DTS SUPPORT - ORDERS	100143	$2.000000
WIRE TRANSFER SERVICES			
2030	BOOK TRANSFER CREDIT	350320	$5.000000
2060	INCOMING BATCH BOOK TRANSFER	350320	$5.000000
2298	BOOK TRANSFER DEBIT	350222	$7.000000
2319	STANDING ORDER BOOK TRANSFER	350512	$5.000000
2379	DRAWDOWN WIRE	350525	$15.000000
2460	BATCH DOMESTIC WIRE	350104	$10.000000
2462	OUTGOING BATCH BOOK TRANSFER	350124	$10.000000

Additional Potential Fees

The services and pricing listed in this section are features of the products implemented that may be available to you based on the implementation of the services requested in this Pro Forma.

Service Code	Service Description		Unit Price
WIRE TRANSFER SERVICES			
2470	BATCH DOMESTIC WIRE - MWL	350104	$10.000000
2502	WIRE ADVICE - PHONE	350411	$20.000000
2506	WIRE ADVICE - SWIFT	350401	$5.000000
2514	WIRE ADVICE - U.S. MAIL	350410	$7.000000
2522	WIRE ADVICE - EMAIL	350402	$3.000000
3584	TM DOMESTIC REPETITIVE WIRE	350100	$12.000000
3586	TM BOOK TRANSFER REPETITIVE	350120	$7.000000
3588	TM WIRE DRAWDOWN REQUEST	350524	$0.000000
2450	MWL TREASURY MAINT FEE	359999	$0.000000
RECONCILIATION SERVICES			
3329	DLTY POSITIVE PAY IMAGE	151352	$2.000000
3330	REVERSE POS PAY MAINTENANCE	150031	$40.000000
3331	REVERSE POS PAY - ITEM	150720	$0.080000
3334	DLTY REV POS PAY - IMAGE	150724	$2.000000
3339	DLTY PAYEE POS PAY - IMAGE	151200	$0.000000
4214	RECON/POS PAY SPECIAL HANDLING	200324	$0.000000
316	CHECK IMAGE TRANS-MAINT	151354	$50.000000
317	CK IMAGE TRNS-MAINT ADDTL ACCT	151354	$20.000000
318	CHECK IMAGE TRANS-PER ITEM	151354	$0.025000
319	CK IMAGE-DATA TRANSMISSION	151354	$100.000000
332	PARTIAL RECON MAINT PAPER	200020	$80.000000
336	FULL RECON MAINT ELECTRONIC	200010	$75.000000
337	CD-ROM DUPLICATE DISC	151353	$20.000000
340	FULL RECON MAINT PAPER	200010	$100.000000
342	FULL RECON - ITEM	200110	$0.070000
344	DEPOSIT RECON MAINTENANCE	100600	$70.000000
346	DEPOSIT RECON - ITEM	100610	$0.110000
352	CD-ROM MULTI-CYCLE	151353	$40.000000
357	MULTIPLE CYCLE CD-ROM ITEMS	151351	$0.025000
TREASURY MANAGER			
3550	TM IMPLEMENTATION FEE	400310	$200.000000
3561	TM/OLC RETURN ITEM REPORT	400500	$1.000000
3576	TM REVERSE POS PAY MAINTENANCE	150031	$40.000000
3577	TM REVERSE POS PAY ITEM	150720	$0.080000
ONLINE COURIER SERVICES			
3957	OLC IMPLEMENTATION FEE	400310	$50.000000
3959	OLC CASH POSITION REPORT	400003	$0.000000
3963	OLC SIG ADV STATEMENT	010306	$5.000000
3964	OLC BUS SWEEP REPORT SERVICE	450020	$5.000000
3969	OLC ACH-EDI PRIOR DAY REPORT	400005	$25.000000
3971	SUNRISE RPT SUMMARY & DETAIL	400622	$25.000000
3973	OLC ACH RETURNS REPORT	40000Z	$3.000000

Additional Potential Fees

The services and pricing listed in this section are features of the products implemented that may be available to you based on the implementation of the services requested in this Pro Forma.

Service Code	Service Description		Unit Price
ONLINE COURIER SERVICES			
3974	OLC ACH FRAUD CTRL REJECT RPT	251053	$3.000000
3975	OLC ICL IMAGE QUALITY ADJ RPT	100540	$1.000000
3978	OLC ACH-EDI CSV REPORT	400500	$1.000000
3979	OLC CPR PAID REPORT	400500	$1.000000
3980	OLC CPR UNPAID REPORT	400500	$5.000000
3981	OLC ARP REPORT	400500	$5.000000
3982	OLC POSITIVE PAY FILE UPLOAD	200211	$15.000000
3986	OLC WIRE TRAN EMAIL ADVICE	409999	$3.000000
3987	OLC WIRE TRANSFER FAX ADVICE	409999	$6.000000
3991	ACH TRANS FILE - MAINTENANCE	999999	$20.000000
3992	ACH TRANSACTION DETAIL FILE	999999	$5.000000
POSPAY/REVERSE POS PAY			
4110	PD REV POSPAY FILE	150031	$15.000000
4120	CD REV POSPAY FILE	150031	$15.000000
4132	CPR/POSPAY/PAYEE D/T BANK/FILE	200200	$0.000000
4141	CONTROL/POSITIVE PAY - ITEMS	150120	$0.080000
4144	POSITIVE PAY WITH RECON MAINT	150720	$45.000000
4161	CPR/PAYEE POSITIVE PAY - ITEMS	150122	$0.080000
4164	PAYEE POS PAY W RECON - MAINT	150720	$65.000000
4165	CPR/PAYEE POS W RECON ITEMS	150122	$0.040000
4211	CPR/POSPAY/PAYEE D/T CLNT/FILE	150600	$15.000000
4230	CPR POS PAY - MAINT	150720	$140.000000
4240	CPR PAYEE POS PAY - MAINT	150720	$160.000000
4242	CPR PAYEE POSPAY W RECON-MAINT	150720	$150.000000
RETAIL LOCKBOX			
7703	RLBX CC COBS REDACT AND IMAGE	050238	$0.150900
7710	RLBX CREATE IMAGE CD/DVD	050423	$350.000000
7712	RLBX FOREIGN ITEM PROCESSING	050230	$10.000000
7713	RLBX VIRTUAL CD MONTHLY MAINT	05011R	$25.000000
7715	RLBX SPECIAL SCREENING	05021P	$0.060000
7717	RLBX INFO REPORTING - FAX	050320	$125.000000
7718	RLBX INFO REPORTING - DIGITAL	051003	$75.000000
7722	RLBX LOCKBOX PROGRAMMING	050236	$150.000000
7724	RLBX DEPOSIT TICKET	05011L	$50.000000
7727	RLBX INCOMING RECEIPTED MAIL	059999	$10.000000
7728	RLBX P.O. BOX ANNUAL RENTAL	050012	$100.000000
7729	RLBX PHOTOCOPY REQUEST	059999	$30.000000
7739	RLBX CHECK MICR LINE CAPTURE	050221	$0.120000
7740	RLBX MARKSENSE CHECK BOX	05021P	$0.250000
7742	RLBX PAYMENT ONLY KEYSTROKES	050220	$0.015000
7744	RLBX HIGH SPEED EXTRACTION	050200	$0.200000
7750	RLBX NON-REMIT MAIL/NO PAYMENT	05021M	$0.250000
7751	RLBX SPECIAL HANDLING	05021P	$0.100000

Additional Potential Fees

The services and pricing listed in this section are features of the products implemented that may be available to you based on the implementation of the services requested in this Pro Forma.

Service Code	Service Description		Unit Price
RETAIL LOCKBOX			
7752	RLBX PAYMENT ONLY PHOTOCOPY	05021A	$0.150000
7753	RLBX ADD'L 1ST CLASS MAIL	050412	$100.000000
7758	RLBX PACKAGE PREPARATION	05021G	$60.000000
7761	RLBX CAPTURED ITEMS 25K-50K	05021Q	$0.090000
7763	RLBX IMAGE TRANSMISSION- FILE	050420	$15.000000
7764	RLBX CAPTURED ITEMS > 50K	050424	$0.080000
7765	RLBX CAPTURED ITEMS < 5K	050424	$0.100000
7766	RLBX IMAGE CD ROM PER CD	050423	$50.000000
7768	RLBX CRRSPND/BATCH MAINTENANCE	05021Q	$75.000000
7769	RLBX IMAGE ARCHIVE 2-4 YRS	05021Q	$0.283600
7770	RLBX IMAGE ARCHIVE 5-7 YRS	05021Q	$0.396100
7771	RLBX IMAGE ARCHIVE 8-11 YRS	05021Q	$0.432100
7773	RLBX MONTHLY PO BOX RENTAL	05021Q	$40.000000
7774	RLBX IMAGE ARCHIVE 90 DAYS	05021Q	$0.028800
7776	RLBX WATCHLIST ALERT	050320	$25.000000
7778	RLBX KEYSTROKES ADDT'L FIELDS	050220	$0.015000
7779	RLBX IMG ITEMS TRANSMITTED	05021Q	$0.040000
7782	RLBX IMAGE DVD	05011R	$65.000000
7783	RLBX PAYMENT ONLY SPECIAL SORT	059999	$0.100000
7726	RLBX USPS MAIL	050410	$0.000000
CASH MANAGEMENT SERVICES			
864	ZBA CUSTOM REPORTING	019999	$0.000000
780	FLOOR PLAN EQUITY SWEEP MAINT	550010	$175.000000
797	SMART SWEEP	459999	$0.000000
852	ZBA PLUS MASTER ACCOUNT MAINT	019999	$40.000000
853	ZBA PLUS SUB ACCOUNT MAINT	019999	$5.000000
854	ZBA PLUS REPORTING	019999	$6.000000
860	SUB ACCOUNT SERVICE - MASTER	019999	$100.000000
861	SUB ACCOUNT SERVICE - SUB	019999	$5.000000
865	SUB ACCOUNT INDIVIDUAL REPORT	019999	$12.000000

Service Code	Service Description	Definition
21	MONTHLY ACCT MAINTENANCE FEE	Monthly fee for maintaining a business account (Acct). Per Month, Per Account.
35	DEP ACCT USAGE RATE (PER $100)	Monthly fee assessed on the average positive ledger balance for the month for deposit (Dep) accounts (Acct). The average positive ledger balance is divided by 100 and then multiplied by the rate listed on the account analysis statement and divided by 12 to calculate the usage fee amount. Per Account With Average Positive Collected Ledger Balance, Per $100 On Deposit.
100	CREDITS POSTED	Fee for posting deposits (credits) to an account. Deposits include transactions made at a banking location or ATM. They also may include, but are not limited to, credits posted from account transfers, wire transfers, Real Time Payments (RTP), Image Cash Letter deposits, Remote Deposit, sweep transfer, online banking transfers and other electronic credits. Per Credit.
105	ACH RECEIVED CREDIT	Fee for an ACH received credit. Per ACH Credit.
107	RLBX ON-US DEPOSITED ITEM	Fee for payment items deposited through retail lockbox (RLBX) that are drawn on Truist (On-us). Per Deposited Item.
109	RLBX TRANSIT DEPOSITED ITEM	Fee for payment items deposited through retail lockbox (RLBX) that are drawn on other financial institutions (Transit). Per Deposited Item.
110	ITEMS DEPOSITED - ON-US	Per item fee for check deposits drawn on a Truist Account (On-Us) and made at locations that may include, but are not limited to, branch, ATM, Lockbox or through the mail. Per Deposited Item.
112	ITEMS DEPOSITED - IN STATE	Per item fee for check deposits drawn on a bank with a routing number in the same state as the deposit location. Deposit sources may include, but are not limited to, branch, ATM, Lockbox or through the mail. Per Deposited Item.
114	ITEMS DEPOSITED - OTHER	Per item fee for check deposits drawn on a bank with a routing number in a different state than the deposit location. Deposit sources may include, but are not limited to, branch, ATM, Lockbox or through the mail. Per Deposited Item.
117	REMOTE DEPOSIT ITEM - ON-US	Per item fee to process deposited checks drawn on a Truist Account (On-Us) through the Remote Deposit Capture solution. Per Deposited Item.
119	REMOTE DEPOSIT ITEM - TRANSIT	Per item fee to process deposited checks drawn on a non-Truist Account (Transit) through the Remote Deposit Capture solution. Per Deposited Item.
122	WLBX ON-US DEPOSITED ITEM	Fee for payment items deposited through wholesale lockbox (WLBX) that are drawn on Truist (On-us). Per Deposited Item.
124	WLBX TRANSIT DEPOSITED ITEM	Fee for payment items deposited through wholesale lockbox (WLBX) that are drawn on other financial institutions (Transit). Per Deposited Item.
128	CHECKS PAID AND OTHER DEBITS	Fee for posting checks or drafts (debits) for payment on the account. Debits include withdrawal transactions made at a banking location, or ATM. They also may include, but are not limited to, debit card purchases, bill pay, sweep debits, wire transfers debits, Real Time Payments (RTP) transfers, certified checks, legal order debits. Per Debit.
134	ACH RECEIVED DEBIT	Fee for an ACH received debit. Per ACH Debit.
165	CHECK BLOCK	Monthly fee per account set up to prevent (Block) any check from posting to their account. Per Month, Per Account.
331	CD-ROM MAINTENANCE	Maintenance fee per statement cycle for the creation and mailing of a CD-ROM that includes transaction images and DDA statement for the designated primary account. Per Primary Account, Per Statement Cycle.
333	CD-ROM ITEMS	Fee for each check and other paper debit items posted to an account that is subscribed to the CD-ROM service. Per CD-ROM Image.
334	PARTIAL RECON - ITEM	Per item fee for providing partial reconciliation (Recon) services for paid checks. Per Item.
335	CD-ROM DISC	Fee for each CD-ROM disc created per statement cycle. Per Primary Account, Per CD-ROM Disc.
338	PARTIAL RECON MAINT ELECTRONIC	Monthly maintenance (Maint) fee for the capability to provide partial reconciliation (Recon) services delivered electronically. Per Month, Per Account.
341	CD-ROM ADDITIONAL ACCT FEE	Maintenance fee per statement cycle for each additional account (Acct) included on the CD-ROM. Per Additional Account, Per Statement Cycle.

Service Code	Service Description	Definition
385	COIN ORDER PER ROLL	Fee per each roll of coin ordered and to be provided at a bank's branch location. Per Roll Ordered.
390	CURRENCY ORDER PER $1	Fee per $1 of currency ordered and to be provided at a bank's branch location. Per $1 Ordered.
395	COIN AND CURRENCY DEPOSITED	Fee per $1 of coin and currency deposited that is processed and verified for a calendar month. The fee includes the following: cash deposits made over the counter (OTC) at bank branch locations, night depository(s) or Package Forward and reflects the total amount of coin and currency deposited into the account during a calendar month. Monthly Coin and Currency Deposited Per $1.
396	DEPOSIT CORRECTIONS	Fee for correcting a deposit when the adjustment is greater than $10. Per Adjustment.
491	RDC MONTHLY MAINT PER SCANNER	Monthly maintenance (Maint) fee per scanner for the capability to use the Remote Deposit Capture (RDC) service. Per Month, Per Scanner.
530	ACH NOTIFICATION OF CHANGE	Fee for processing each ACH Notification of Change. A Notification of Change contains correcting information that is required to be changed for any subsequent ACH transaction. Per Notification of Change.
538	ACH RETURN TRANSACTION	Fee for processing a returned ACH transaction. Per Transaction.
540	DT/DLTY ACH MONTHLY MAINT	Monthly maintenance (Maint) fee for the capability to originate ACH payments via Direct Transmission (DT) and or Digital Treasury (Dlty). Per Month, Per Account.
545	ACH INPUT FILE RECEIVED/TRANS	Per file fee for transmitting an ACH origination file via data transmission. Per File.
553	TOTAL ACH ORIGINATED ITEMS	Fee for each ACH credit or debit transactions (Tran) originated through Direct Transmission, Treasury Manager, Digital Treasury, or Integrated Payables. Fee volume includes the total number of credit and debit items originated for the month. Per Transaction.
554	ACH ORIGINATED ADDENDA RECORD	Fee for processing reference information in an Addenda Record associated with an ACH originated transaction. Per Addenda Record.
850	ZBA MASTER ACCOUNT MAINTENANCE	Monthly per account fee for maintaining a Zero Balance Account (ZBA) Master and/or Super Master Account, the highest tier in a three tiered relationship. Per Account, Per Month.
851	ZBA SUB ACCOUNT MAINTENANCE	Monthly per account fee for maintaining a Zero Balance Account (ZBA) subsidiary (Sub) account in a zero balance relationship. This fee also applies to the master account in a multi-tiered relationship. Per Account, Per Month.
910	CHECK DRAWN ON CANADIAN BANK	Fee for the processing of a check in U.S. dollars (USD), but drawn on a Canadian Bank Per Item Deposited.
1052	ACH POSITIVE PAY MONTHLY MAINT	Monthly maintenance (Maint) fee for each account with ACH Positive Pay service which provides the capability to filter or disposition ACH transactions received. Per Month, Per Account.
1062	ELEC LBX MONTHLY MAINTENANCE	Monthly fee for maintaining each account profile on the Electronic (Elec) Lockbox (LBX) service. Per Client ID, Per Month.
1066	ELEC LBX PER ITEM	Per item fee for processing of each electronic transaction for a single demand deposit account (DDA) that is sent from Bill Pay Processors for the Electronic (Elec) Lockbox (LBX) service. Per Item.
1086	EDI MONTHLY MAINT RECEIVABLES	Monthly fee for maintaining (Maint) each profile for File Translation and Delivery Services. Fee includes collection, formatting and delivery of remittance detail in a standard EDI receivables or other designated format via direct transmission. Per Profile, Per Month.
1087	EDI TRANSACTION RECEIVABLES	Fee for including a transaction on the EDI receivables or other custom formatted file. Per Transaction.
1143	ELEC LBX CUSTOM PROGRAMMING	Fee for Electronic (Elec) Lockbox (LBX) custom programming services per client request. Per Client Request for Custom Programming.
1144	ELEC LBX DATA TRANSMISSION	Per month fee for the capability to generate and transmit an Electronic (Elec) Lockbox (LBX) data transmission output file as defined in accordance with client Electronic Lockbox instructions. Per Client ID, Per Month.
1200	RDI SPECIAL HANDLING MAINT	Monthly maintenance (Maint) fee for any account with special instructions for handling returned deposited items (RDI). Per Account, Per Month.
1205	RETURNED DEPOSITED ITEM FEE	Fee for processing a deposited item returned. Per Return.
1210	REDEPOSIT (RECLEARED) RET ITEM	Special handling instruction fee per item for a returned (Ret) item that the client has instructed to redeposit (Reclear) to their account. Requested instruction entails the RDI special handling maintenance fee. Per Redeposit.
1400	VAULT MONTHLY MAINTENANCE	Monthly maintenance fee for the capability of using cash vault services per location. Per Month, Per Location.

Service Code	Service Description	Definition
1401	CASH VAULT DEPOSITS	Fee for posting a deposit consisting of any combination, but not limited to, SmartSafe deposits, coin, currency, or checks delivered to the bank's cash vault location. Per Deposit.
1405	VAULT CASH DEPOSITED PER DOLLR	Fee for processing and verifying cash (currency and coin) at the cash vault facility per dollar (Dollr) deposited. Each deposit is rounded to the nearest whole dollar. Per Dollar Deposited.
2028	INCOMING DOMESTIC WIRE	Fee for an incoming domestic wire. Per Wire.
3016	CONTROLLED DISB MAINT	Monthly maintenance (Maint) fee for the capability to provide Controlled Disbursement (Disb) services. Per Account, Per Month.
3319	TM ACH FILE UPLOAD	Fee for processing an ACH file upload (pass-through) via Treasury Manager (TM). Per File.
3320	TM ACH BATCH PROCESSING FEE	Fee for each ACH Batch imported or key entered into Treasury Manager (TM) and completed within a specific ACH Processing Cycle. Batches may be combined or separate based on client instructions. Per Batch.
3551	TM/OLC MAINTENANCE FEE	Monthly fee for maintaining a Company ID for the capability to access or to utilize the Treasury Manager (TM) and or Online Courier (OLC) service. If Online Courier is added with different services (Prior Day, Current Day, Special Reports), and or different billing account/detail account combinations that are not set up on Treasury Manager, a fee will be assessed for both the Treasury Manager Company ID and the Online Courier Company ID, otherwise a single fee will be assessed. Per Company ID, Per Month.
3552	TM/OLC PRIOR DAY SERV/MONTH	Monthly fee for maintaining a Company ID for the capability to access or to utilize the prior day information reporting service (Serv) for Treasury Manager (TM) and or Online Courier (OLC). If prior day information reporting is also received via Online Courier and the billing account/detail account combination differs from those set up on Treasury Manager, a fee will be assessed for both the Treasury Manager Company ID and Online Courier Company ID; otherwise, a single fee will be assessed. Per Company ID, Per Month.
3553	TM/OLC PRIOR DAY/ACCOUNT	Fee for each account for prior day detail and summary information reporting for Treasury Manager (TM) and or Online Courier (OLC). If prior day information reporting is also received via Online Courier and the billing account and detail account combination differs from those set up on Treasury Manager, the per account fee will also be assessed for each account set up on Online Courier for prior day information reporting. Per Account.
3554	TM/OLC PRIOR DAY/DETAIL ITEM	Fee for each prior day information reporting detail item loaded for each account in Treasury Manager (TM) and or Online Courier (OLC). If prior day information reporting is also received via Online Courier and the billing account and detail account combination differs from those set up on Treasury Manager, the per detail item fee will also be assessed for each item reported via Online Courier. Per Detail Item.
3555	TM/OLC CURRENT DAY SERV/MONTH	Monthly fee for maintaining a Company ID for the capability to access or to utilize the current day information reporting service (Serv) for Treasury Manager (TM) and or Online Courier (OLC). If current day information reporting is also received via Online Courier and the billing account and detail account combination differs from those set up on Treasury Manager, a fee will be assessed for both the Treasury Manager Company ID and Online Courier Company ID; otherwise, a single fee will be assessed. Per Company ID, Per Month.
3556	TM/OLC CURRENT DAY/ACCOUNT	Fee for each account for current day detail and summary information reporting for Treasury Manager (TM) and or Online Courier (OLC). If current day information reporting is also received via Online Courier and the billing account and detail account combination differs from those set up on Treasury Manager, the per account fee will also be assessed for each account set up on Online Courier for current day information reporting. Per Account.

Service Code	Service Description	Definition
3557	TM/OLC CURRENT DAY/DETAIL ITEM	Fee for each current day information reporting detail item loaded for each account in Treasury Manager (TM) and or Online Courier (OLC). If current day information reporting is also received via Online Courier and the billing account and detail account combination differs from those set up on Treasury Manager, the per detail item fee will also be assessed for each item reported via Online Courier. Per Detail Item.
3559	TM/OLC ACH-EDI REPORT	Fee for the ACH-EDI translated human-readable report of received ACH debits or credits, that includes remittance information when provided by the originating company. Fee volume is the total number of days the ACH-EDI report is loaded on the account that received the report on the greatest number of days across all accounts during the month on a Treasury Manager (TM) and or Online Courier (OLC) Company ID. If the ACH-EDI report is also received via OLC and the billing account and detail account combination differs from those set up on TM, the ACH-EDI report fee will also be assessed for OLC. The Greatest Number Of Days With A Report Loaded Across All Accounts, Within A Company ID.
3560	TM/OLC CAR REPORT	Fee for the Client Activity Report (CAR) which provides a statement of daily originated ACH activity. This includes, but is not limited to, transaction adjustments, Notification of Change (NOC) requests, ACH return items and settlement transactions. Fee volume is the total number of days the CAR report is loaded on the account that received the report on the greatest number of days across all accounts during the month on a Treasury Manager (TM) and or Online Courier (OLC) Company ID. If the CAR report is also received via OLC and the billing account and detail account combination differs from those set up on TM, the CAR report fee will also be assessed for OLC. The Greatest Number Of Days With A Report Loaded Across All Accounts, Within A Company ID.
3562	TM/OLC CPR REPORT(S)	Fee for Controlled Payment Reconciliation (CPR) reporting that includes three separate CPR reports to assist with identifying potential fraud. The three reports are generated daily. Fee volume is the total number of days any CPR report is loaded on any account that received the report on the greatest number of days across all accounts during the month on a Treasury Manager (TM) and or Online Courier (OLC) Company ID. If CPR reporting is also received via OLC and the billing account and detail account combination differs from those set up on TM, the CPR report(s) fee will also be assessed for OLC. The Greatest Number Of Days With A Report Loaded Across All Accounts, Within A Company ID.
3564	TM ONLINE STOP PAYMENT	Fee for processing an electronic/online stop payment request submitted through Treasury Manager (TM). Fee is for each individual stop payment request whether for a single check or a range of checks. Per Stop Payment Request.
3565	TM ACH MONTHLY MAINTENANCE	Monthly maintenance fee for the capability to use Automated Clearing House (ACH) services that includes, but is not limited to, initiating, importing and or uploading ACH transactions through Treasury Manager (TM). The fee applies per Company ID. Per Company ID, Per Month.
3566	TM ACCOUNT TRANSFER	Fee per completed account transfer through Treasury Manager (TM). Per Completed Account Transfer.
3568	TM WIRE TRANSFER SERVICE/MONTH	Monthly fee for the capability to use wire transfer services that include, but are not limited to, initiating and or importing wire transactions through Treasury Manager (TM). The fee is assessed per Company ID. Per Company ID, Per Month.
3585	TM DOMESTIC NON-REP WIRE	Fee for sending a domestic non-repetitive (Non-Rep) wire transfer initiated through Treasury Manager (TM). Per Wire.
3587	TM BOOK TRANSFER NON-REP	Fee for sending a non-repetitive (Non-Rep) book transfer between Truist accounts initiated through Treasury Manager (TM). Per Transfer.
3961	OLC DDA STATEMENT	Fee for generating and sending Demand Deposit Account (DDA) statement(s) via Online Courier (OLC). Per Account, Per Month.
3962	OLC ANALYSIS STATEMENT	Fee for generating and sending Account Analysis statement(s) via Online Courier (OLC). Per Account, Per Month.

Service Code	Service Description	Definition
4133	CPR/POS PAY/PAYEE-EXCEPTIONS	Per item fee for handling a check drawn on a Controlled Pay Reconciliation (CPR), Positive Pay (Pos Pay) and or Positive Pay Payee Account that does not match the issue record as provided by the client. Mismatches are exceptions and include, but are not limited to paid-no-issue records (PNIs) and encoding errors. Per Exception Item.
4140	POSITIVE PAY - MAINTENANCE	Monthly maintenance fee for each account set up on Positive Pay without Reconciliation service. Per Month, Per Account.
4145	CTRL/POS PAY WITH RECON ITEM	Per item fee for verifying each check against each record on an issue file for a Control (Ctrl) Pay or Positive (Pos) Pay account with full or partial reconciliation (Recon) service. Per Item.
4232	CPR POS PAY W RECON - MAINT	Monthly maintenance (Maint) fee for each account set up on Controlled Pay Reconciliation (CPR) Positive Pay (Pos Pay) with (W) Reconciliation (Recon) service. Per Month, Per Account.
7203	WLBX IMAGE ARCHIVE 1 YEAR	Per image fee for all items imaged and archived for one year. Simplex imaging will count as 1 image per item and duplex imaging will count as 2 images per item. Item is defined in accordance with client wholesale lockbox (WLBX) instructions. Per Image.
7204	WLBX IMG ITEMS SCANNED	Per image (IMG) fee for remittance document items scanned. Simplex scanning of a remittance document item will count as 1 image per item and duplex scanning will count as 2 images. Items may include, but are not limited to, the remittance envelope and contents that are scanned in accordance with client wholesale lockbox (WLBX) instructions. Per Image.
7206	WLBX IMAGE CD ROM PER CD	Per CD fee for each CD-ROM/DVD of images received for the month on a wholesale lockbox (WLBX). Per CD/DVD.
7207	WLBX CRRSPND BATCH MAINTENANCE	Monthly maintenance fee for separate batching of correspondence (Crrspnd) for each wholesale lockbox (WLBX). Per Lockbox, Per Month.
7214	WLBX MAINTENANCE - MONTHLY	Per month fee for maintaining a wholesale lockbox (WLBX). Per Lockbox, Per Month.
7222	WLBX REJECTED ITEMS	Per item fee for handling items that were received through a wholesale lockbox (WLBX) and were rejected. Rejects include, but are not limited to, payment items that do not conform to client defined business rules or cannot be processed. Per Item.
7241	LOCKBOX DEPOSITS	Fee for processing and posting a deposit of items received in a Lockbox. Per Deposit.
7247	WLBX CREDIT CARD AUTH MONTHLY	Per month fee for maintaining client authorization (Auth) instructions for credit card payments received in a wholesale lockbox (WLBX). Per Lockbox, Per Month.
7259	WLBX REMITTER TABLE MAINT	Per month fee for maintaining (Maint) specified Remitter Table functionality for a wholesale image lockbox (WLBX). Per Lockbox, Per Month.
7264	WLBX IMAGE BATCH DOWNLOAD	Per batch of images downloaded/exported via Lockbox Image Browser of wholesale lockbox (WLBX) items. A batch for download/export is defined as 250 images or less of either combination of payment items and or correspondence. A download/export is executed each time a user clicks to download/export a batch of images. Per Batch.
7279	WLBX STANDARD ITEM	Per item fee for standard processing of a wholesale lockbox (WLBX) item. Item is defined in accordance with client wholesale lockbox instructions. Per Item.
7307	WLBX SPECIAL HANDLING	Per item fee for performing special handling of monetary instruments and/or associated documents. Item is defined in accordance with client wholesale lockbox (WLBX) instructions. Per Item.
7714	RLBX REJECTED ITEMS	Per item fee for handling items that were received through a retail lockbox (RLBX) and were rejected. Rejects include, but are not limited to, payment items that do not conform to client defined business rules or cannot be processed. Per Item.
7719	RLBX MAINTENANCE - MONTHLY	Monthly fee for maintaining a retail (i.e. scannable) lockbox (RLBX). Per Lockbox, Per Month.
7725	RLBX EXPRESS MAIL COURIER	Cumulative monthly fee for the shipping and handling for all remittance advice packages sent via overnight mail for a retail lockbox (RLBX) based on client defined instructions. Delivery options include, but are not limited to, FedEx, courier, and express mail. This fee applies when a client elects to use the Bank's mailing account and associated mailing rate, rather than their own. Per Remittance Package, Per Month.
7730	RLBX CASH PAYMENT PROCESS	Per envelope fee for receiving and processing cash payments for a retail lockbox (RLBX). Per Envelope.
7732	RLBX DATA TRANS - PER FILE	Per file fee for transmitting (Trans) each file of retail lockbox (RLBX) data based on client instructions. Per File.

Service Code	Service Description	Definition
7745	RLBX LOW SPEED EXTRACTION	Per item fee for processing items via the Low Speed Mail Extraction equipment. Item is defined in accordance with client retail (RLBX) lockbox instructions. Per Item.
7755	RLBX MULTIPLE PAYMENTS/COUPONS	Per item fee for processing a transaction that contains multiple coupons or multiple payment items in the envelope. Item is defined in accordance with client retail lockbox (RLBX) instructions. Per Item.
7756	RLBX PARTIAL PAYMENTS	Per item fee for processing a transaction where the payment item amount does not match one of the amounts in the coupon scan line (partial payment). Item is defined in accordance with client retail lockbox (RLBX) instructions. Per Item.
7760	RLBX CAPTURED ITEMS 5K-25K	Per image fee for capture of retail lockbox (RLBX) items. This code applies when monthly total volume of captured items is between 5k - 25k. Item is defined in accordance with client retail lockbox instructions. Per Image.
7762	RLBX IMAGE ARCHIVE 1 YEAR	Per image fee for all items imaged and archived for one year. Simplex imaging will count as 1 image per item and duplex imaging will count as 2 images per item. Item is defined in accordance with client retail lockbox (RLBX) instructions. Per Image.
7772	RLBX IMAGE BATCH DOWNLOAD	Per batch fee for images downloaded/exported via Lockbox Image Browser of retail lockbox (RLBX) items. A batch for download/export is defined as 250 images or less of either combination of payment items and or correspondence. A download/export is executed each time a user clicks to download/export a batch of images. Per Batch.
7775	RLBX FULL TEXT SEARCH	A per image fee for indexing retail lockbox (RLBX) client specified fields in order to perform full text search in the Lockbox Image Browser using a keyword, phrase or characters. Simplex scanning of an item will count as 1 image per item and duplex scanning will count as 2 images. Per Image.

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.

August 11, 2022

Rebecca Bowman
65 Stone St.
City of Cocoa, FL 32922

RE: Marion County Mirrored Banking Extension Agreement for Banking Services between the City of Cocoa (“the City”) and Truist Bank (“Truist”) effective September 1, 2022.

Dear Mrs. Bowman:

Thank you for continuing to choose Truist for your deposit and treasury services. We appreciate the opportunity to maintain a meaningful partnership with you over the coming years. Truist Bank (the "Bank") is pleased to offer the City of Cocoa (the "City") an extension o the banking services contract between the City and Truist Bank, effective September 1, 2022, for a thirty-six (36) month term through August 31, 2025. The rates and pricing disclosed herein will apply to all applicable deposit and group accounts.

Earnings Credit Rate (ECR): 90 basis points (bps)
Under the terms of the Marion County Extension, the City will earn 90bps as the Earnings Credit Rate applied to the compensating balance.

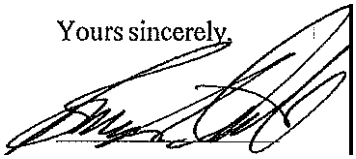
Interest Rate:
For balances above the compensating balance required to offset fees, Truist will pay an interest rate equal to 50% of the top end of the Fed Fund Target range. This rate is offered through August 2025, after which the interest rate will be a managed rate and subject to change. During the committed term, interest rate changes will be effective the following month after a Fed Fund rate move; these changes will occur without notice.

The pricing detailed in the attached pro forma and glossary includes the service description and unit cost of the services. Your Account Analysis statement will show the actual volumes and associated charges from use of the services, in addition to other charges for services utilized that may have been previously disclosed. Changes to treasury services fees are applied to the entire month in which they are effective. Treasury services fees will be debited as one lump sum the month after transactions occur and will appear on your bank statement as Service Charges – Prior Period. Account Analysis statements are available by mail or electronic delivery methods.

Please see attached, a new Treasury Management Master Agreement that must be signed by the City.

Thank you for the years of shared business. We look forward to continuing to strategize with your team to structure innovative solutions to best position the City for the ever changing business and economic landscape with which we are faced.

Yours sincerely,



Brian S. Orth
Senior Vice President Government Banking, Truist Bank

Accepted and agreed to this _____
day of _____, 202__.

By:_____
Name:_____
Title:_____

Attached:
Treasury Management Master Agreement
Pricing Proforma
Pricing Proforma Glossary

TRUIST

Truist Treasury Management Agreement

This Treasury Management Agreement ("TMA", and, with the other documents incorporated herein by reference, the "Agreement"), effective as dated below, is made by and between Truist Bank ("Bank") and the entity designated in the signature section below ("Client"). This Agreement governs the treasury management services provided by Bank, as more specifically described below (each a "Service", and together, the "Services").

1. Organization of Agreement. Along with this TMA, the following are incorporated into the Agreement by reference. Any conflict between the terms herein and the terms incorporated below shall be resolved in the following order of priority: T&Cs, TMA, then CBSA.
   a. Treasury Terms and Conditions ("T&Cs"), available at www.truist.com/treasuryterms. The T&Cs include general terms applicable to all Services, as well as specific terms for individual Services. Individual Service terms for Services implemented for any Client account are applicable to Client. Service terms for Services not implemented for a Client account shall not be applicable to Client.
   b. Commercial Bank Services Agreement ("CBSA"). All terms of the CBSA are incorporated into this Agreement and shall apply to the Services and any claims or disputes that arise out of this Agreement, including but not limited to CBSA provisions regarding the mutual arbitration agreement, jury trial and litigation class action waiver, duty of care, claim limitation, account opening, applicable law and jurisdiction, account types, account rules, authorization of transfers, costs, expenses, and fees.

2. Service Selections. During implementation of a new Service or modification of an existing Service, certain selections may be made including but not limited to security procedures, transaction limits, Primary Administrator(s) (as defined herein), and/or other options or features relating to the Service. Selections made for a Service shall be incorporated into this Agreement and shall govern any use of the Service. Any election to use a new Service or modification of an existing Service, as well as certain information relating to Service selections, may be communicated in accordance with the Notice section herein. Client shall be bound by the Service selections communicated in accordance with this Agreement unless Client notifies Bank of any errors before any subsequent use of the Service. Certain Services require testing, training, or additional documentation that must be completed; however, Client shall be bound by all terms and conditions of this Agreement during any use of a Service, regardless of whether testing, training, or additional documentation has been completed.

3. Authorized Individuals. Bank will identify individuals with authority to enter into agreements and provide instructions on behalf of Client and delegate any authority regarding the Services through a resolution, designation, delegation, or other document provided by Client and acceptable to Bank. Those individuals shall be referred to as "Authorized Individuals." Bank may act upon any oral or written instruction that the Bank in good faith believes has come from an Authorized Individual including any instruction via telephone call, facsimile, e-mail, text message, instant message, or other electronic method. Client shall be bound by, and Bank shall be deemed to have acted in good faith in accepting, any instruction from an Authorized Individual when Bank has authenticated such instruction in accordance with Bank's authentication procedures, using information provided by Client and contained in Bank's records, or when Bank relies upon a security procedure (as defined herein) in order to accept an instruction.

4. Administrators. Some Services require designation of a "Primary Administrator". A Primary Administrator for a Service has the ability to make certain selections for the Service, and to assign and modify entitlements and authorizations for a Service, including creating additional users and users with administrative entitlements ("administrators"), all as more specifically described in the T&Cs for the applicable Service. Primary Administrators may grant administrators entitlements up to and including entitlements held by the Primary Administrator, meaning that those administrators may have the ability to make selections for a Service, create additional administrators or modify or disable the entitlements of the Primary Administrator. Primary Administrators must initially be designated by an Authorized Individual, but given the ability of additional administrators to modify or disable entitlements of the Primary Administrator, the individual designated by Client as Primary Administrator may not retain administrative entitlements in the Service. Client is bound by any actions of a user who has been granted entitlements within a Service by an administrator, and Client is bound by any actions of users with administrative entitlements that enable them to perform administrative actions including but not limited to acceptance or modification of security procedures, selection of

Service-specific dual administration, dual control, or other Service-specific selections, acceptance of additional terms or licenses (such as click-wrap terms) relating to a Service, and granting of access and entitlements to the Service. Client is responsible at all times for ensuring that Client's current administrators review and modify the entitlements and access of any previously designated user or administrator as necessary, as removal or replacement of a user or administrator in any agreement or other documentation provided to Bank may not result in automatic removal of the user or administrator's entitlements within a Service.

5. Proprietary Rights and Restrictions on Use. Bank and its vendors retain all ownership, intellectual property and other rights with respect to the Services and as further contained in the T&Cs.

6. Third Parties. Client may authorize third party processors and other agents ("Third Party[s]") to give the Bank instructions, provide information to be used relating to Services, or use the Services on the Client's behalf. Bank may in its sole discretion require documentation from Client and/or a Third Party to evidence the Third Party's authority with respect to Client's accounts and Services. Client remains responsible for any actions of its Third Parties, whether or not Client has provided notice to Bank of Client's use of such Third Parties. In addition, some Services may provide access to information about Client's accounts at other financial institutions or entities ("Other FIs"), or may allow reporting of information about Client's accounts with Bank to an Other FI. Bank makes no representations and assumes no liability with respect to the correctness, accuracy, completeness, integrity, or timeliness of any information (i) received from any such Third Party or Other FI or (ii) any use or disclosure of information provided to such Third Party or Other FI. Bank is not responsible for any Service errors or delays caused by such Third Parties or Other FIs.

7. Authority for Other Entities. If Client requests accounts owned by another entity to be accessed in any way by or associated with Client's Services, Client represents and warrants that Client has authority (granted by a duly authorized individual of the owner of the account(s)) to access the accounts and perform transfers of the funds contained therein, regardless of whether Bank requires further proof of, confirmation, or documentation relating to Client's authority with respect to the accounts of the other entity. Client further agrees that the provisions of this Agreement shall apply to those accounts accessed by or associated with the Services to the same extent as if Client owned the accounts. Client agrees to indemnify and hold Bank harmless from any and all claims or losses that arise as a result of Bank complying with Client's request to add or associate accounts to Client's Services.

8. Security Procedures. The security procedures Bank offers to Client are designed to control access to the Services and verify the authenticity of instructions provided to the Bank. The security procedures are not designed to detect errors in the content of instructions or information transmitted to the Bank, including but not limited to intended account numbers of Client, account numbers not belonging to name of recipient, and erroneous or fraudulent instructions provided to Client by another party. Security procedures may include, but are not limited to, access credentials (including username, user ID, password, or other log-in information); authorization codes or tokens used to log in to a Service or initiate or approve any transactions initiated within a Service; and procedures to verify or authenticate transactions (including dual control requirements). Client agrees that use of any Service constitutes acceptance of the security procedures for that Service, as described in the T&Cs for that Service, and agrees that the security procedures are commercially reasonable for Client's use of the Service, including the size, type and frequency of any possible transactions that may be initiated from Client's accounts that may be associated with the Service now or in the future. Client agrees to be bound by, and Bank is authorized to rely and act upon, all Service initiation, access, and instructions accepted by Bank in good faith and in compliance with the applicable security procedures, whether or not Client (or a user, administrator, or Authorized Individual of Client) actually gave Bank those instructions. If Client believes any security procedure is inadequate, Client may terminate the Service immediately upon notice to Bank. Client agrees to comply with additional security procedures that may be implemented by Bank for a particular Service from time to time.

   Client is responsible for controlling access to and maintaining the confidentiality of the details related to the security procedures and Client must immediately report to Bank as soon as Client becomes aware of any (i) suspected breach of that confidentiality, (ii) compromise of any security procedure, or (iii) need to revoke any access credentials or authorization codes. Client's failure to control access to and maintain confidentiality of the security procedures, or failure to notify Bank as required herein, may result in improper use of the security procedures to initiate or access a Service or initiate instructions. Subject to applicable law, Client shall be responsible for any transaction or losses relating to access to a Service resulting from such improper use of security procedures, provided Bank has complied with its obligations herein, and Client agrees that Bank shall have no liability for any loss, claim or damage Client sustains as a result of the improper use of the security procedures.

9. Liability. To the extent permitted by law, Bank's liability under this Agreement shall be limited to direct losses suffered by Client caused directly by Bank's gross negligence or willful misconduct in performing its obligations under this Agreement, which liability shall not exceed the sum of fees and charges imposed for Services provided to Client for a period of one year. Notwithstanding the foregoing, if Bank's failure to exercise ordinary care results in an unauthorized, delayed, or erroneous Payment Order, as defined in Article 4A of the Uniform Commercial Code of the state whose law is applicable to the Agreement (the "UCC"), Bank shall be required to reimburse Client the amount of the loss of funds relating to Bank's failure, plus the amount of interest losses (calculated using the daily Federal Funds rate published by the Federal Reserve Bank of New York) attributable to such failure, according to the terms of the UCC. Bank's liability for Client's direct losses will be reduced to the extent any losses are the result of Client's failure or breach of Client's obligations under this Agreement, including any failure to mitigate damages. If Bank reimburses Client for any losses or damages, Client agrees to transfer all rights relating to the transactions in question to Bank and to reasonably assist Bank in any efforts or legal actions that Bank may take to recover those amounts from any third party.

10. Bank's Policies and Procedures. Client agrees that Bank's internal policies or procedures are for Bank's sole benefit and that they were not developed for Client reliance thereon. Such policies and procedures shall not impose any higher standard of care or duty upon Bank, and Client has no right to claim any reliance on any such policies or procedures, except as specifically contained herein.

11. Indemnification. Client shall indemnify and hold Bank and its affiliates, subsidiaries, officers, directors, and employees harmless against any claim, loss, damage, deficiency, penalty, cost or expense including litigation expenses, other costs of investigation or defense, and reasonable attorney's fees resulting from: (a) any breach or default by Client in the performance of this Agreement; (b) any negligence or willful misconduct of Client; (c) incorrect, incomplete, or inaccurate data or information furnished by Client to Bank; and (d) any action taken by Bank (i) at the direction of Client, or a Third Party or other agent of Client, or (ii) per any instruction authenticated in accordance with the requirements for that instruction or the Service to which the instruction relates. Client's duty to indemnify Bank shall be reduced by the extent to which Bank's gross negligence or willful misconduct contributed to any losses.

12. Equipment, Communications Capabilities and Software. Several of the Services require that Client have adequate, uncompromised, and properly working equipment (including mobile devices, to the extent mobile applications are used or mobile internet access is used), communications capabilities (including email addresses and an internet connection), connectivity, and software (collectively, "technology") in order to use the Service. Client is responsible for providing and maintaining any technology necessary to use a Service. It is Client's responsibility to ensure the integrity and security of the technology, and that the technology remains functioning properly and is compatible with Bank's processing environment. Bank shall have no responsibility if Client's technology is defective, compromised, or does not remain compatible with, or connected to, Bank's processing environment, even if Client has told Bank what technology Client intends to use or Bank has previously indicated Client's technology was compatible.

13. Fraud Detection/Deterrence. Bank may recommend certain Services to Client that are designed to detect and/or deter fraud, help Client to identify and reject potentially fraudulent transactions, or generally reduce the likelihood that certain types of fraudulent transactions will occur. Client agrees that if Client fails to implement any of these Services which are recommended by Bank (whether before or after Client suffers a loss of the type that could be prevented by the Service), Client will be precluded, from and after the date that Client declines the Service, from asserting any claims against Bank with respect to any losses for any unauthorized, altered, counterfeit or other fraudulent transactions that such Service was designed to detect or deter. In addition, Bank will not be required to re-credit Client's account or otherwise have any liability for such transactions as long as Bank has otherwise satisfied its duty of care with respect to the transactions and Services.

14. Fees. Fees applicable to the Services, and any changes to such fees, will be disclosed via a fee schedule, pro forma, and/or other method. Applicable terms of the CBSA shall apply to fees, billing and payment for Services provided pursuant to this Agreement.

15. Amendment. Bank may amend this Agreement, including any terms within the T&Cs and pricing applicable to any Service, by giving Client prior written notice of the amendment. Notwithstanding the foregoing, an amendment by Bank may become effective immediately if: (i) Bank reasonably determines that the amendment will not have a material adverse effect on Client's use of any Service, or (ii) the amendment is required for security reasons or by law. This Agreement may not otherwise be amended except in writing signed by both parties. In the event Client does not agree with any amendment, Client's sole remedy shall be ceasing use of the applicable Service(s) prior to the effective date of the amendment. The CBSA may be amended per its applicable terms.

16. Term and Termination. This Agreement shall remain in full force and effect until it is terminated by either party as provided herein. Either party may terminate this Agreement or any Service by giving thirty (30) days prior written notice to the other party. The liabilities of the parties shall cease on the effective date of termination, except as to events or liabilities incurred prior to the effective date of termination. In the event Bank reasonably determines it is no longer able to provide a Service due to a change in laws or rules or if required by a regulatory authority, Bank may terminate this Agreement or a specific Service immediately upon written notice to Client. In the event of Client's failure to perform or observe any of the conditions, covenants, or restrictions herein set forth, or if the good faith opinion of Bank, Client is involved in potentially illegal or unethical business practices or is financially unstable, or the prospect of Client's payment or performance has been impaired, then in addition to any other available remedies, Bank may terminate this Agreement or any Service immediately upon written notice to Client.

17. Notices. Any notice under this Agreement shall be deemed given: (i) to Bank when such notice is received by Client's Treasury Sales Officer (provided that if Client needs assistance with contact information for a Treasury Sales Officer or does not have an assigned Treasury Sales Officer, Client can call Treasury Solutions Client Support at 800-774-8179 for assistance on sending notice to Bank), or at such other location or address as Bank may hereafter provide to Client in writing; (ii) to Client when mailed or delivered to Client's current address per Bank's records, emailed to Client at a current email address for Client as shown on Bank's records, or delivered to Client via a Service or through other electronic means, including mobile application messages, messages provided within a Service or posted to a website, and text messages. At Bank's discretion, communications with Client regarding operational, product-related, procedural, and technical matters relating to the Services may be provided orally and not subject to the notice requirements of this section; Bank may require written confirmation of any notices provided to Bank orally. Bank is authorized to rely on any instructions or information provided by Client until Bank receives notice from Client modifying any prior instructions or information, and Bank has had a reasonable time to act on such notice.

18. Electronic Communications. Client's consent to receive electronic communications in the CBSA shall also apply to electronic communications related to the Services. By use of any Service on Client accounts, Client agrees to continue receiving such electronic communications; in the event Client wishes to withdraw consent to receive electronic communications, Client must cease use of the Services. It is Client's sole responsibility to provide accurate contact information to Bank (including email address, telephone, and mobile numbers) and promptly notify Bank in the event of any changes to Client's contact information. Client represents and warrants that to the extent Client provides any personal mobile device number to Bank for the purpose of notification relating to a Service, Client has obtained express consent from the owner of the mobile device for such purpose.

19. Entire Agreement. This Agreement contains the entire understanding of the parties and supersedes any previous discussions, proposals, or agreement, whether oral or written. This Agreement shall not supersede or govern any other banking or lending relationship between the parties.

Signature. The individual signing this Agreement represents that he or she is authorized to do so by the entity listed below. This Agreement may be signed manually or electronically according to Bank's instructions. A duplicate or copy of this manually or electronically signed document delivered through facsimile or email attachment shall be as effective and enforceable as an original manually signed document, and a digital, electronic or photo static image of this signed document maintained in Bank's record retention system shall be as effective and enforceable as an original manually signed document. This Agreement completely replaces any prior agreements between Client and Bank with respect to the Services or the subject matter referred to herein. However, any previous Service selections provided to Bank while any prior agreements were in effect continue to be effective until modified in accordance with this Agreement.

By signing this Agreement, Client agrees that use of a Service shall evidence Client's binding acceptance of the applicable security procedures for the Service, regardless of whether Client executes or receives a separate document or agreement relating to such security procedures. Client may review the applicable security procedures at any time by accessing the Terms & Conditions for a Service, available at www.truist.com/treasuryterms.

Client Name	City of Cocoa	
Tax ID	596000292	
Designated Representative	_____	
Print Name	Stockton Whitten	
Print Title	City Manager	
Date	August 23,	, 20 22

Truist Pro Forma Account Analysis Statement

Pro Forma ID: 80817
Account Officer: Orth,Brian
Treasury Consultant: Roman, Maria

Effective 09/01/2022
City of Cocoa FL
Treasury Proposal
Deposit Account # TBD

Analyzed Interest Checking - Public Fund

Earnings Credit Summary

Average Ledger Balance	$97,734,820.84		
Less: Average Float	$220,996.10		
Average Collected Balance	$97,513,824.74	Earnings Credit Rate	0.900 %
Average Negative Collected Balance	$0.00	Earnings Credit Allowance	$72,133.51
Average Positive Collected Balance	$97,513,824.74	Less: Balance Based Charges	$3,418.40
Less 0.00% Related Reserves	$0.00		
Average Positive Balance Available	**$97,513,824.74**	**Total Analysis Based Charges**	$0.00
		ADD: Explicit & Billed Separately	$0.00
		ADD: Independent Account Service Charges	$0.00
		Total Service Charges for Period	$0.00

Interest Earnings Summary

Hybrid Solution	
Average Positive Available Balance	$97,513,824.74
Less: Bal Required for Analyzed Services	$4,621,170.37
Average Positive Net Available Balance	$92,892,654.37
Hybrid Interest Rate	1.250 %
Hybrid Estimated Interest Earned	$95,437.66
Total Estimated Interest Earned for Period	$95,437.66
Net Client Benefit	$95,437.66

Service Code	Service Description	Volume	Unit Price	Total Price
GENERAL BANKING SERVICES				
21	MONTHLY ACCT MAINTENANCE FEE	3	$8.000000	$24.00
100	CREDITS POSTED	132	$0.560000	$73.92
117	REMOTE DEPOSIT ITEM - ON-US	303	$0.080000	$24.24
119	REMOTE DEPOSIT ITEM - TRANSIT	3,174	$0.080000	$253.92
128	CHECKS PAID AND OTHER DEBITS	700	$0.050000	$35.00

The pricing detailed in this pro forma does not constitute a contractual offer of any particular service, price, rate or account type for any term. Estimated volumes may be included in this pro forma based on our assumptions or information shared with us. It is for purposes of estimation and discussion only unless accompanied by other agreements or commitments that offer explicit pricing or terms. Your Account Analysis statement will reflect the actual services, volumes and charges for the services utilized. Reviewing your Account Analysis statements with full line-item detail is recommended and those statements are available by mail or electronic delivery methods. Service descriptions and related information may change or be updated by Truist with or without notification. Any impacts to a client's pricing will be communicated in accordance with applicable banking agreements. If you have any questions or concerns about your actual pricing, please contact your Treasury Consultant. For a complete list of account related fees, the Truist Business Services Pricing Guide is available at www.truist.com/content/dam/truist-bank/us/en/documents/disclosures/commercial/business-deposits-fee-schedule.pdf

Service Code	Service Description	Volume	Unit Price	Total Price
GENERAL BANKING SERVICES				
160	CHECK PHOTOCOPY VIEW OR PRINT	1	$5.000000	$5.00
396	DEPOSIT CORRECTIONS	1	$5.000000	$5.00
1205	RETURNED DEPOSITED ITEM FEE	17	$3.000000	$51.00
			Subtotal:	**$472.08**
BALANCE RELATED SERVICES				
35	DEP ACCT USAGE RATE (PER $100)	97,734,820	0.000000	$0.00
			Subtotal:	**$0.00**
VAULT SERVICES				
1400	VAULT MONTHLY MAINTENANCE	1	$10.000000	$10.00
1401	CASH VAULT DEPOSITS	65	$0.600000	$39.00
1405	VAULT CASH DEPOSITED PER DOLLR	197,106	$0.000900	$177.40
1407	VAULT DEPOSIT CORRECTION	1	$7.500000	$7.50
1410	VAULT DEPOSIT ITEMS - ON-US	3	$0.150000	$0.45
1411	VAULT DEPOSIT ITEMS IN-STATE	14	$0.150000	$2.10
1412	VAULT DEP ITEMS - OTHER	11	$0.150000	$1.65
1421	VAULT CHG ORDR NONSTANDARD	2	$8.000000	$16.00
1425	VAULT CURRENCY ORDERED	1,370	$0.001000	$1.37
1427	VAULT ROLLED COIN ORDER	49	$0.120000	$5.88
			Subtotal:	**$261.35**
SPEC COLLECTION SERVICES				
462	ICL MONTHLY MAINT FEE	1	$200.000000	$200.00
464	ICL QUALIFIED ON-US ITEMS	1,746	$0.035000	$61.11
465	ICL QUALIFIED TRANSIT ITEMS	17,945	$0.060000	$1,076.70
471	ICL TRANSMISSION - PER TRANS	21	$1.000000	$21.00
491	RDC MONTHLY MAINT PER SCANNER	2	$15.000000	$30.00
			Subtotal:	**$1,388.81**
WIRE TRANSFER SERVICES				
2205	CORPORATE CALL MAINT	2	$20.000000	$40.00
3585	TM DOMESTIC NON-REP WIRE	18	$5.000000	$90.00
3587	TM BOOK TRANSFER NON-REP	7	$5.000000	$35.00
			Subtotal:	**$165.00**
ACH SERVICES				
105	ACH RECEIVED CREDIT	245	$0.050000	$12.25
134	ACH RECEIVED DEBIT	43	$0.050000	$2.15
530	ACH NOTIFICATION OF CHANGE	4	$0.500000	$2.00
538	ACH RETURN TRANSACTION	32	$1.000000	$32.00
540	DT/DLTY ACH MONTHLY MAINT	2	$15.000000	$30.00
553	TOTAL ACH ORIGINATED ITEMS [1-5000]	0	$0.030000	$0.00
553	TOTAL ACH ORIGINATED ITEMS [5001-25000]	14,813	$0.030000	$444.39

Service Code	Service Description	Volume	Unit Price	Total Price
ACH SERVICES				
553	TOTAL ACH ORIGINATED ITEMS [25001+]	0	$0.030000	$0.00
554	ACH ORIGINATED ADDENDA RECORD [1-5000]	1	$0.020000	$0.02
554	ACH ORIGINATED ADDENDA RECORD	0	$0.020000	$0.00
554	ACH ORIGINATED ADDENDA RECORD [25001+]	0	$0.020000	$0.00
1050	ACH AUTHORIZATION RECORD	1	$8.000000	$8.00
1052	ACH POSITIVE PAY MONTHLY MAINT	3	$5.000000	$15.00
3319	TM ACH FILE UPLOAD	22	$5.000000	$110.00
3320	TM ACH BATCH PROCESSING FEE	1	$2.000000	$2.00
			Subtotal:	**$657.81**
EDI SERVICES				
1086	EDI MONTHLY MAINT RECEIVABLES	1	$0.000000	$0.00
1087	EDI TRANSACTION RECEIVABLES	284	$0.080000	$22.72
			Subtotal:	**$22.72**
RECONCILIATION SERVICES				
334	PARTIAL RECON - ITEM	678	$0.030000	$20.34
338	PARTIAL RECON MAINT ELECTRONIC	2	$30.000000	$60.00
331	CD-ROM MAINTENANCE	2	$10.000000	$20.00
333	CD-ROM ITEMS	602	$0.030000	$18.06
335	CD-ROM DISC	2	$3.000000	$6.00
341	CD-ROM ADDITIONAL ACCT FEE	1	$3.000000	$3.00
			Subtotal:	**$127.40**
POSPAY/REVERSE POS PAY				
4133	CPR/POS PAY/PAYEE-EXCEPTIONS	10	$5.000000	$50.00
4140	POSITIVE PAY - MAINTENANCE	1	$25.000000	$25.00
4141	CONTROL/POSITIVE PAY - ITEMS	72	$0.020000	$1.44
4144	POSITIVE PAY WITH RECON MAINT	2	$45.000000	$90.00
4145	CTRL/POS PAY WITH RECON ITEM	530	$0.020000	$10.60
4211	CPR/POSPAY/PAYEE D/T CLNT/FILE	1	$15.000000	$15.00
			Subtotal:	**$192.04**
TREASURY MANAGER				
3551	TM/OLC MAINTENANCE FEE	1	$10.000000	$10.00
3552	TM/OLC PRIOR DAY SERV/MONTH	1	$7.000000	$7.00
3553	TM/OLC PRIOR DAY/ACCOUNT	3	$7.000000	$21.00
3554	TM/OLC PRIOR DAY/DETAIL ITEM	1,200	$0.020000	$24.00
3559	TM/OLC ACH-EDI REPORT	21	$0.100000	$2.10
3560	TM/OLC CAR REPORT	21	$0.100000	$2.10
3564	TM ONLINE STOP PAYMENT	2	$10.000000	$20.00
3565	TM ACH MONTHLY MAINTENANCE	1	$10.000000	$10.00
3568	TM WIRE TRANSFER SERVICE/MONTH	1	$10.000000	$10.00
			Subtotal:	**$106.20**

Service Code	Service Description	Volume	Unit Price	Total Price
CASH MANAGEMENT SERVICES				
850	ZBA MASTER ACCOUNT MAINTENANCE	1	$15.000000	$15.00
851	ZBA SUB ACCOUNT MAINTENANCE	2	$5.000000	$10.00
			Subtotal:	**$25.00**
			Total Charges:	**$3,418.41**
			Total Balance Based Charges:	**$3,418.40**

Additional Potential Fees

The services and pricing listed in this section are features of the products implemented that may be available to you based on the implementation of the services requested in this Pro Forma.

Service Code	Service Description		Unit Price
POSPAY/REVERSE POS PAY			
165	CHECK BLOCK	150721	$25.000000
4110	PD REV POSPAY FILE	150031	$15.000000
4120	CD REV POSPAY FILE	150031	$15.000000
4132	CPR/POSPAY/PAYEE D/T BANK/FILE	200200	$0.000000
4161	CPR/PAYEE POSITIVE PAY - ITEMS	150122	$0.080000
4164	PAYEE POS PAY W RECON - MAINT	150720	$65.000000
4165	CPR/PAYEE POS W RECON ITEMS	150122	$0.040000
4230	CPR POS PAY - MAINT	150720	$140.000000
4232	CPR POS PAY W RECON - MAINT	150720	$130.000000
4240	CPR PAYEE POS PAY - MAINT	150720	$160.000000
4242	CPR PAYEE POSPAY W RECON-MAINT	150720	$150.000000
RECONCILIATION SERVICES			
316	CHECK IMAGE TRANS-MAINT	151354	$50.000000
317	CK IMAGE TRNS-MAINT ADDTL ACCT	151354	$20.000000
318	CHECK IMAGE TRANS-PER ITEM	151354	$0.025000
319	CK IMAGE-DATA TRANSMISSION	151354	$100.000000
332	PARTIAL RECON MAINT PAPER	200020	$80.000000
336	FULL RECON MAINT ELECTRONIC	200010	$75.000000
337	CD-ROM DUPLICATE DISC	151353	$20.000000
340	FULL RECON MAINT PAPER	200010	$100.000000
342	FULL RECON - ITEM	200110	$0.070000
344	DEPOSIT RECON MAINTENANCE	100600	$70.000000
346	DEPOSIT RECON - ITEM	100610	$0.110000
352	CD-ROM MULTI-CYCLE	151353	$40.000000
357	MULTIPLE CYCLE CD-ROM ITEMS	151351	$0.025000
3329	DLTY POSITIVE PAY IMAGE	151352	$2.000000
3330	REVERSE POS PAY MAINTENANCE	150031	$40.000000
3331	REVERSE POS PAY - ITEM	150720	$0.080000

Additional Potential Fees

The services and pricing listed in this section are features of the products implemented that may be available to you based on the implementation of the services requested in this Pro Forma.

Service Code	Service Description		Unit Price
RECONCILIATION SERVICES			
3334	DLTY REV POS PAY - IMAGE	150724	$2.000000
3339	DLTY PAYEE POS PAY - IMAGE	151200	$0.000000
4214	RECON/POS PAY SPECIAL HANDLING	200324	$0.000000
SPEC COLLECTION SERVICES			
433	ONSITE DEPOSIT-ESSENT ITEMS	101326	$0.000000
434	ONSITE DEP-ESSENT ITEMS OVER	101326	$0.250000
436	ONSITE DEPOSIT-PREMIUM MO MAIN	10130Z	$35.000000
441	REMOTE DEPOSIT MONTHLY MAINT	101301	$47.000000
442	REMOTE DEPOSIT IMAGE CAPTURED	101321	$0.120000
450	REMOTE DEP REMIT-FILE DOWNLOAD	101300	$150.000000
451	REMOTE DEP REMIT-COUPONS	101321	$0.060000
455	REMOTE DEP FILE-IMPLEMENT STND	101331	$150.000000
457	REMOTE DEP FILE-DOWNLOAD	101300	$100.000000
459	ICL UNQUALIFIED ON-US ITEMS	100210	$0.045000
460	ICL UNQUALIFIED TRANSIT ITEMS	100410	$0.065000
461	ICL SETUP FEE	101335	$300.000000
472	ONSITE DEPOSIT-ESSENTIALS IMPL	101331	$75.000000
473	ONSITE DEPOSIT-PREMIUM IMPL	101331	$75.000000
475	ONSITE DEPOSIT-LOW VOL MONTHLY	10130Z	$49.950000
476	ONSITE DEPOSIT-LOW VOL ITEMS	101326	$0.000000
477	ONSITE DEP-LOW VOL ITEMS OVER	101326	$0.250000
480	ONSITE DEPOSIT-PACKAGE MONTHLY	10130Z	$119.950000
481	ONSITE DEPOSIT-PACKAGE ITEMS	101326	$0.000000
482	ONSITE DEP-PACKAGE ITEMS OVER	101326	$0.250000
486	ONSITE DEPOSIT SCANNER FEE-SIN	101334	$10.000000
487	ONSITE DEPOSIT SCANNER FEE-MUL	101334	$20.000000
490	RDC IMPLEMENTATION	100200	$75.000000
492	RDC - REMITTANCE COUPON	100200	$20.000000
493	RDC - CUSTOMIZED FIELDS	100200	$20.000000
495	RDC - POSTING FILE	100200	$5.000000
497	RDC LITE IMPLEMENTATION	100200	$50.000000
ACH SERVICES			
528	ACH RETURN FILE SET UP	251000	$0.000000
529	ACH RETURN FILE MONTHLY MAINT	250400	$50.000000
532	ACH RETURN NOC-FAX/EMAIL/ONL	250401	$3.000000
533	ACH RE-PRESENTMENT	250310	$4.000000
534	ACH ACTIVITY REPORT	250701	$0.000000
535	ACH UNAUTHORIZED RETURNS	250302	$0.000000
541	ACH INPUT FILE RECEIVED/VENDOR	250501	$17.500000
542	DLTY ACH MONTHLY MAINT PREMIUM	250000	$50.000000
545	ACH INPUT FILE RECEIVED/TRANS	250501	$17.500000
552	ACH TRANSMISSION SET UP	251000	$200.000000
557	ACH FILE DATA TRANS TO CLIENT	400100	$12.000000

Additional Potential Fees

The services and pricing listed in this section are features of the products implemented that may be available to you based on the implementation of the services requested in this Pro Forma.

Service Code	Service Description		Unit Price
ACH SERVICES			
558	PREFUNDED ACH UNAVAIL BALANCE	259999	$0.000000
1051	ACH BLANKET BLOCK MAINTENANCE	251052	$20.000000
1055	UPIC MONTHLY MAINTENANCE	259999	$20.000000
1185	IAT ORIG TRANS	250102	$0.180000
1186	IAT RETURN TRANSACTIONS	250302	$5.000000
3314	DLTY ACH BATCH	250500	$12.000000
3315	DLTY ACH ORIG TRANS BUSBANKING	250102	$1.750000
3316	SAME DAY ACH ORIG TRANSACTION	250102	$1.000000
3318	DLTY SDA ORIG TRANS BUSBANKING	250102	$2.750000
CASH MANAGEMENT SERVICES			
780	FLOOR PLAN EQUITY SWEEP MAINT	550010	$175.000000
797	SMART SWEEP	459999	$0.000000
852	ZBA PLUS MASTER ACCOUNT MAINT	019999	$40.000000
853	ZBA PLUS SUB ACCOUNT MAINT	019999	$5.000000
854	ZBA PLUS REPORTING	019999	$6.000000
860	SUB ACCOUNT SERVICE - MASTER	019999	$100.000000
861	SUB ACCOUNT SERVICE - SUB	019999	$5.000000
865	SUB ACCOUNT INDIVIDUAL REPORT	019999	$12.000000
864	ZBA CUSTOM REPORTING	019999	$0.000000
EDI SERVICES			
1083	EDI PROGRAMMING	300302	$150.000000
1085	EDI IMPLEMENTATION RECEIVABLES	300340	$500.000000
1090	CHECK PRINTING FEE	309999	$0.700000
1091	CHECK ADDITIONAL PAGES	309999	$0.200000
1093	CHECK PULLS	309999	$20.000000
1094	CHECK BATCH-BUNDLE	309999	$10.000000
1301	EDI REPORTING IMP FEE	300340	$50.000000
1302	EDI REPORTING MAINTENANCE	300020	$125.000000
1303	EDI REPORTING PER ITEM FEE	300505	$0.750000
1330	EDI IMPLEMENTATION CHECK ISSUE	309999	$0.000000
1331	EDI MONTHLY MAINT CHECK ISSUE	309999	$125.000000
1332	EDI TRANSACTION CHECK ISSUE	309999	$0.400000
1335	EDI IMPLEMENT REASSOCIATION	309999	$0.000000
1336	EDI MONTHLY MAIN REASSOCIATION	309999	$125.000000
1337	EDI TRANSACTION REASSOCIATION	309999	$0.400000
1340	EDI IMPLEMENTATION RETURNS	309999	$0.000000
1341	EDI MONTHLY MAINT RETURNS	309999	$125.000000
1342	EDI TRANSACTION RETURNS	309999	$0.400000
1371	CUSTOM FILE MAP IMP-PAYABLES	300510	$0.000000
1372	CONSOL PAY RECON FILE-MAINT	300510	$150.000000
1561	CUSTOM FILE MAP IMP-RECEIVABLE	300213	$125.000000
1092	CHECK POSTAGE FREIGHT	309999	$0.000000
1096	CHECK ADDITIONAL INSERT	309999	$0.000000

Additional Potential Fees

The services and pricing listed in this section are features of the products implemented that may be available to you based on the implementation of the services requested in this Pro Forma.

Service Code	Service Description		Unit Price
EDI SERVICES			
1106	EDI DATA TRANSMISSION VIA VAN	300102	$0.000000
VAULT SERVICES			
1404	VAULT DEP ENVELOPE PROCESSING	100104	$1.000000
1408	VAULT SMARTSAFE DEP CREDIT	100102	$0.001200
1415	VLT COIN DEPOSIT STANDARD BAG	100113	$2.000000
1416	VLT COIN DEPOSIT NON-STND BAG	100111	$5.000000
1417	VAULT COIN DEPOSIT SUB TO CNT	100112	$5.000000
1420	VAULT CHG ORDR STANDARD	10014A	$4.000000
1422	VAULT CHG ORDR LATE	100143	$35.000000
1428	VAULT BOX COIN ORDER	100146	$4.000000
1429	VAULT ACCELERATED CASH CREDIT	100154	$0.001200
1433	VLT IFS DTS SUPPORT - DEPOSITS	100154	$3.500000
1434	VLT IFS DTS SUPPORT - ORDERS	100143	$2.000000
WIRE TRANSFER SERVICES			
2030	BOOK TRANSFER CREDIT	350320	$5.000000
2060	INCOMING BATCH BOOK TRANSFER	350320	$5.000000
2298	BOOK TRANSFER DEBIT	350222	$7.000000
2319	STANDING ORDER BOOK TRANSFER	350512	$5.000000
2379	DRAWDOWN WIRE	350525	$15.000000
2460	BATCH DOMESTIC WIRE	350104	$10.000000
2462	OUTGOING BATCH BOOK TRANSFER	350124	$10.000000
2470	BATCH DOMESTIC WIRE - MWL	350104	$10.000000
2502	WIRE ADVICE - PHONE	350411	$20.000000
2506	WIRE ADVICE - SWIFT	350401	$5.000000
2514	WIRE ADVICE - U.S. MAIL	350410	$7.000000
2522	WIRE ADVICE - EMAIL	350402	$3.000000
3584	TM DOMESTIC REPETITIVE WIRE	350100	$12.000000
3586	TM BOOK TRANSFER REPETITIVE	350120	$7.000000
3588	TM WIRE DRAWDOWN REQUEST	350524	$0.000000
2450	MWL TREASURY MAINT FEE	359999	$0.000000
TREASURY MANAGER			
3550	TM IMPLEMENTATION FEE	400310	$200.000000
3555	TM/OLC CURRENT DAY SERV/MONTH	400053	$25.000000
3556	TM/OLC CURRENT DAY/ACCOUNT	400275	$20.000000
3557	TM/OLC CURRENT DAY/DETAIL ITEM	400272	$0.130000
3561	TM/OLC RETURN ITEM REPORT	400500	$1.000000
3562	TM/OLC CPR REPORT(S)	400500	$1.000000
3566	TM ACCOUNT TRANSFER	250201	$1.500000
3576	TM REVERSE POS PAY MAINTENANCE	150031	$40.000000
3577	TM REVERSE POS PAY ITEM	150720	$0.080000

TRUIST

Treasury Terms and Conditions

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General Terms and Conditions for All Services

1. Introduction. These general terms and conditions (T&Cs) apply to all Services as defined in the Truist Treasury Management Agreement (TMA) made by and between Bank and Client. Individual Service terms within the T&Cs for Services implemented for any Client account are applicable to Client. Service terms for Services not implemented for a Client account shall not be applicable to Client. These general T&Cs along with the Service T&Cs are incorporated into the Agreement per the terms of the TMA.

2. Reference Materials. The "reference materials" for a Service consist of documents that provide details regarding the functionality of that service, as well as certain formatting and other technical requirements for the Service. Reference materials may include, without limitation, user and administrator manual, quick reference guides, FAQs, and/or file formats and specifications; reference materials may be separate documents or may be instructions contained or available within a Service. Bank may update, modify, or create new reference materials for a Service without notice to Client. Client may obtain current reference materials at any time upon request to Bank, or at the website or other online location as specified by Bank. In the event of any conflict between this Agreement and the reference materials, this Agreement shall control.

3. Accessing Services through Online Services. Certain Services may be accessed through an online or mobile application or online service, including but not limited to an online or mobile application providing single sign-on access to one or more Services. Terms and conditions for such online or mobile application/service may be within this Agreement or may be within a separate agreement or set of terms. If Client accesses any Services through such online or mobile application/service, the terms applicable to the online or mobile application/service will govern Client's use of that online or mobile application/service (including how users log-in to the online or mobile application/service and how user and administrative entitlements are handled therein), and the T&Cs for the Services being accessed via the online or mobile application/service will govern use of the Services.

4. Limited License. Bank grants Client a limited, non-exclusive, and revocable license or sublicense to use the Services, and any related software, websites, or mobile applications, for business purpose activities pursuant to the terms of the Agreement. The Services, including all online services, websites, and mobile applications, and the entire contents, features and functionality (including but not limited to all information, software, text, displays, images, video and audio, and the design, selection and arrangement thereof) of the Services, are owned by Bank, Bank's licensors or other vendors of such material and are protected by Untied States and international copyright, trademark, patent, trade secret and other intellectual property or proprietary rights laws. Client must not (a) copy, disassemble, decompile, or otherwise reverse engineer any part of the Services, or (b) remove, obscure, or modify any acknowledgments, credits or legal, intellectual property or proprietary notices, marks or logos contained in the Services or their content. Client may use the Services for Client's own benefit. Client may not copy, reproduce, distribute or create derivative works from the content and agree not to reverse engineer or reverse compile any of the technology used to provide the Services. In the event Client attempts to use, copy, license, sublicense, sell or otherwise convey or to disclose the Services in any manner contrary to the terms of this Agreement, Bank shall have, in addition to any other remedies available, the right to injunctive relief enjoining such actions. A separate license agreement (in the form of a "shrink wrap" or "click wrap" agreement with Bank or Bank's vendor) may be required for Client to download or otherwise access the Services or any related websites, software or mobile applications, and Client acknowledges and agrees that such license agreement shall apply to use of the Service, regardless of whether the license agreement is agreed to by an Authorized Individual, a user of the Service, or an administrator of the Service.

5. Proprietary Rights. Bank or Bank's vendors retain all ownership and other rights in the Services, related data, websites, documentation, mobile applications, and software, and in any related trade secrets, copyrights and other intellectual property and proprietary information. Client acknowledges that the Services (and related data, websites, documentation, mobile applications, and software) contain confidential and/or proprietary information that belongs to Bank or Bank's vendors. Client shall not disclose or otherwise make such information available to any person other than Client's employees or agents who have a valid need to use the Services on behalf of Client. Client must require its employees and agents to comply with the restrictions on use in this Agreement. These obligations shall continue after termination of the Agreement or termination of any Services. Client agrees that Bank may pursue any remedy available at law or in equity to protect its ownership and intellectual property rights and to preserve confidentiality of the Services, including any injunctive relief Bank deems necessary. Client may not take any action or engage in any conduct that violates Bank's rights or the rights of Bank's vendor with respect to the Services.

6. Hardware and Security Credentials. Client is responsible for maintaining the confidentiality and security of Client's computer or mobile device, as well as access passwords, account numbers, log-in information, and any other security or access credentials or information used to access or related to the Services (the "security credentials"). Client is also responsible for preventing unauthorized access to computers or mobile devices used to access the Services. **Bank strongly recommends that Client use secure encryption, secure browsing software, and other available security technology to protect Client's computer and mobile environments.** Bank shall not be responsible for any errors, deletions, or failures that occur as a result of any malfunction of Client's computer or mobile device, nor will Bank be responsible for any computer virus or malware that affects Client's computer or mobile device while using a Service.

7. Disclaimer of Warranties. The Services are provided "as is", and Bank makes no representations or warranties of any kind (i) that the operation of any Service will be continuous, uninterrupted, or error-free, (ii) that the Services are free of defects, (iii) that the Services or any associated websites, mobile applications, or software are free of viruses, disabling devices or other harmful components, or (iv) that any information or reports that are transmitted over the internet, a wireless network, or sent by e-mail or other electronic method will remain confidential or remain accurate and unaltered when received or accessed by Client. **To the maximum extent permitted by law, Bank also disclaims all representations and warranties of any kind, whether express, implied or statutory, in connection with the Services and any related websites, software, or other equipment Bank may provide, including implied warranties of merchantability, fitness for a particular purpose, title and non-infringement.**

8. Liability Provisions Related to Government Entities. Any indemnification obligation in this Agreement shall not apply to a government entity Client to the extent such obligation is limited or prohibited by applicable law. Notwithstanding the foregoing, a government entity Client shall otherwise remain financially and legally responsible and liable to Bank for all obligations it incurs under the Agreement, including but not limited to any overdrafts in an account, and Bank specifically reserves all other rights with respect to the government entity Client.

9. Assignment. Client may not assign the Agreement or any Services to a third party without Bank's prior written consent, which shall not be unreasonably withheld, provided that Client and/or third party may be required to execute any documentation deemed necessary by Bank as a condition of the written consent of Bank. Bank may assign the Agreement to any of Bank's affiliates or successors in interest, without notice to or consent from Client. In the event Client objects to any such assignment, Client may terminate the Agreement or any Services immediately upon written notice to Bank.

10. Bank's Vendors. Bank may delegate any duties under the Agreement to one or more affiliates, agents or vendors of Bank without notice to or consent of Client. Bank shall be responsible for the performance of such providers to the same extent as if Bank were providing the applicable Service(s) directly.

11. Client's Vendors. Any third party servicer or vendor used by Client in connection with any Service shall be deemed Client's agent. Client will be liable for (i) such vendor's failure to comply with requirements of this Agreement, (ii) all fees, costs and expenses of such vendor, and (iii) any claims, damages, costs and expenses incurred as a result of such vendor's performance or non-performance.

12. Courier or Messenger Services. For any courier or messenger services Bank provides to Client, Client understands and agrees that (a) the courier is Client's agent and not an agent of Bank; (b) deposits collected by the courier or messenger are received by Bank when the deposits have been delivered to a teller at Bank's premises or a location that is eligible and designated by Bank to receive deposits; (c) negotiable instruments collected by the courier or messenger are paid at Bank when delivered to the courier or messenger; and (d) transactions conducted by a courier service are not insured by the FDIC.

13. Headings and Certain References. The headings used in the Agreement are for reference purposes only and should not be considered when interpreting the Agreement. Whenever the term "including" is used in the Agreement, it means "including, without limitation". Whenever the term "days" is used in the agreement, it is a reference to calendar days unless that reference specifies it is either a business day or a banking day (as such term is defined in the CBSA).

14. Remedies. The rights, powers, remedies and privileges provided in the Agreement are the sole and exclusive rights, powers, remedies and privileges of both parties with respect to the Services.

15. Representations and Warranties Related to Trust Accounts, Political Organizations, and ERISA. Client acknowledges that inclusion of any account within a Service which is designated as a trust account, escrow account, "for the benefit of" account, political organization account (including, without limitation, a campaign

committee account for a candidate for federal, state, or local office or a political action account) or account of similar designation, may result in access to such account (including use of the funds and access to information related to the beneficiaries of such account) by any user entitled to access the account within the applicable Service. To the extent Client requests this type of account to be included in a Service, Client represents and warrants that this inclusion is not prohibited by any agreement applicable to the account or Client, and does not violate any applicable law or any fiduciary or other duty that Client may have with respect to the account. Client assumes all risks associated with including this type of account in a Service, and Client shall indemnify and hold Bank harmless from any claims, judgments, damages, costs, liabilities, interests, losses or expenses, including reasonable attorneys' fees and court costs and expenses, that arise directly or indirectly from including this type of account in a Service. Client further represents and warrants that if any account that is subject to the Employee Retirement Income Security Act of 1974 ("ERISA) is included in a Service, Client shall indemnify and hold Bank harmless from any liability for any loss of ERISA funds as a result of such inclusion.

16. Force Majeure. Client agrees that Bank will not be liable with respect to any error, delay or failure to perform caused by (i) fire, flood, natural disaster, strike, civil unrest, terrorism, failure of computer or communications facilities that Bank does not control, (ii) acts or omissions of any third party including any Federal Reserve Bank, clearing house or funds transfer system, or (iii) any other circumstance beyond Bank's reasonable control, or with respect to matters Bank has not specifically assumed responsibility for under the Agreement.

17. Alerts and Notifications. Certain Services may provide or allow Client to receive alerts or notifications through email, text message, and/or notifications to a mobile device or through a mobile application ("Alerts"). Client is responsible for providing accurate and up-to-date contact information and proper authority to Bank in order to receive Alerts, and for managing Alert settings within the applicable Service. Alerts are provided as a convenience only and may be subject to lag times, interruptions, or delays in transmission and Bank makes no representation or warranty concerning the availability, currency or accuracy of any Alert. Client remains obligated to review information available within the applicable Service or account statement per the terms of the Agreement, regardless of whether Alerts are received by Client. Messsage and data rates may apply. Bank is not liable for delayed or undelivered Alerts.

ACH Fraud Control Service

1. Description of ACH Fraud Control Service. The ACH Fraud Control service is an internet-based solution with the following components: ACH Positive Pay, ACH File Control Totals, ACH Warehouse Search, ACH Blanket Block Option, Standing Order Option, and Single Entry Option. ACH Positive Pay enables clients to authorize which received Automated Clearing House (ACH) transactions post to Client's Truist deposit account. ACH File Control Totals enables Clients using ACH Origination via file transfer to input file control totals online and receive real time file processing status notifications. ACH Warehouse Search enables Clients to inquire on received or originated ACH transactions. The ACH Blanket Block, Standing Order, and Single Entry Options restrict ACH transactions from posting to the applicable account as described below. Client's use of services relating to receipt or origination of ACH debits or credits ("ACH entries") is subject to these terms and conditions, the ACH Origination terms and conditions (as applicable), and the Nacha Operating Rules ("Rules") governing the ACH Network. **The Nacha Operating Rules may be obtained through www.nacha.org.**

2. Designation of Primary Administrator. Client must designate a Primary Administrator for the ACH Fraud Control service.

3. Selection of ACH Fraud Control Service Options. Client may select various service options for each account in the ACH Fraud Control service setup. The options available are as follows:

    a. ACH Positive Pay.

        i. The ACH Positive Pay feature allows Client to create authorizations to allow particular ACH debit and credit entries to post to an account, and to review ACH entries received that are initially blocked and make a decision to post or return the entries.

        ii. Client shall establish ACH authorization criteria (in a manner and format, and containing such information, as required by Bank) for ACH debit or credit entries that Client intends to be received for each deposit account. When an ACH entry is received that matches an authorization, the entry will post to the account in accordance with Bank's current processing procedures and in accordance with the Rules. When an ACH debit or credit entry is received that does not match an ACH authorization, that entry will initially

reject, as a "rejected entry." Each rejected entry will be suspended for a period of time for Client to review and decide whether to return that entry or to allow that entry to post to the account.

iii. Until the applicable decision deadline, entitled users may either authorize the rejected entry to post or return the entry to the originator. If Client fails to notify Bank by the decision deadline of its decision concerning a rejected entry, Bank will not post the entry to Client's account and will return the entry.

iv. Client is responsible for having up-to-date and accurate authorizations in effect at all times for all ACH entries that Client intends to allow to post to Client's accounts. Bank shall have no liability for posting ACH entries which match a current authorization, or for any rejected entries that are returned to the originator, so long as Bank otherwise processes the ACH entries in accordance with these terms and conditions and Bank's current processing procedures.

v. In the event the ACH Positive Pay feature is unavailable, Bank will use reasonable efforts to provide information to Client with respect to rejected entries, and to allow Client to provide authorization or return decisions to Bank. Client acknowledges that when the ACH Positive Pay feature is unavailable, an entry that Client has not previously authorized, but that Client may have otherwise approved through the service, may be rejected.

vi. When an ACH authorization expires or service is terminated for any reason, Bank will no longer be obligated to monitor entries against such authorization criteria provided by Client and Bank will receive and accept or return ACH entries to Client's account in accordance with Bank's current procedures and the Rules.

b. Dual Administration. If Client elects the dual administration feature, a second user with sufficient entitlements must approve requests to create, modify or delete an authorization, and must approve any decision to accept or reject a rejected entry. In order to elect the dual administration feature, Client must designate a second ACH Fraud Control administrator, in addition to the Primary Administrator, on the Primary Administration Designation agreement (or other document accepted by Bank). **Bank strongly recommends that Client use the dual administration feature.**

c. Alerts. Certain alerts are available within the ACH Fraud Control service, including alerts when an ACH entry received for posting was rejected; when an ACH entry posted because it matched an authorization; when a decision for a rejected entry or an authorization maintenance request needs to be approved; and when a decision has been made or modified, or an authorization has been created, deleted or changed. The Primary Administrator of the service will designate which users are to be sent an alert and which alert(s) each user is to be sent. Client is responsible for establishing alert notification preferences for users, and for users' monitoring of alerts and taking action as necessary.

d. ACH File Control Total.

i. The ACH File Control Total feature allows Client to submit control totals to Bank in order to release ACH files for processing, when Client uses Bank's ACH Origination service and submits ACH files to Bank via file transfer.

ii. Client is responsible for submitting valid ACH control totals via the ACH File Control Total feature in a manner and format acceptable to Bank when submitting ACH files to Bank for processing.

iii. Client is responsible for establishing email notification preferences and monitoring notifications which provide file processing acceptance, suspension, and user statuses for the ACH File Control Total feature.

e. ACH Warehouse Search.

i. The ACH Warehouse Search feature allows a user to view ACH transaction entries that have been received and posted to a deposit account and to view ACH file, batch and transaction details that Client has originated through Bank's ACH Origination service.

ii. ACH received transaction information and ACH Origination file, batch and transaction information will be maintained and made available for view through ACH Warehouse Search in accordance with Bank's applicable retention schedules.

f. ACH Blanket Block Option. This option allows Client to block the posting of all incoming ACH debit and/or credit entries to a designated account. Client can opt to block only incoming ACH debit entries, only incoming ACH credit entries, or both incoming ACH debit and credit entries. Client will not have the opportunity to decision rejected entries; instead, any entries which are blocked by this option will be returned automatically.

g. Standing Order Option. This option allows Client to generally block all incoming ACH debit entries from posting to a designated account, but allows Client to authorize one or more incoming ACH debit entries from a known source/originator(s) to post to the account on a repetitive or "standing" basis. Client will not have the opportunity to decision rejected entries; instead, any entries which do not match an authorization will be returned automatically.

h. Single Entry Option. This option allows Client to generally block all incoming ACH debit entries from posting to a designated account, but allows Client to authorize particular ACH debit entries from a known source/originator to post to the account on a one-time or "single entry" basis. Once the Bank has posted an entry to which a single entry authorization applies, that authorization will expire and the Bank will block any future instance of that entry unless Client establishes a new authorization to allow that future instance. Client will not have the opportunity to decision blocked or rejected entries; instead, any entries which do not match an authorization will be returned automatically.

4. ACH Debit Entries Sent by Bank or Bank's Vendors. If Client uses an account setup for the ACH Fraud Control service to settle incoming ACH debit entries for certain transactions with Bank or with certain of Bank's third party vendors, then Client must specifically authorize those entries through the service. Examples of these ACH debit entries include Cash Concentration service debits, automated loan and lease payments, check order payments, merchant card settlements, collections, and transfers. Client is responsible for having up-to-date and accurate authorizations in effect for all ACH entries Client intends to post to Client's accounts, including incoming ACH debit entries for transactions with Bank or Bank's vendors. If Client fails to authorize entries for these transactions, then such entries may be blocked and Client may incur additional fees, interest and charges. Note that in some cases, due to Bank's system configurations, incoming ACH debit entries for certain transactions with Bank or Bank's vendors may still post to Client's account, even if Client has not authorized those entries through the service.

5. Reversals, Returns and Adjustments. In accordance with the Rules, ACH reversals will automatically post to Client's account regardless of any options or blocks on the account. Bank may also return an ACH entry for any reason that an entry may be returned under the Rules or under this Agreement, and Bank may post any entry, reversal or adjustment to the applicable account which Bank is required to accept under the Rules or any other applicable rule, guideline or regulation.

ACH Origination Service

1. Description of ACH Origination Service. The Automated Clearing House ("ACH") Origination service allows Client to initiate debit and/or credit entries through the ACH network, a funds transfer system for sending and settling electronic entries among participating financial institutions. Details regarding functionality, formatting, and other technical requirements that Client must follow when using the service are provided in the ACH Origination reference materials.

2. Functioning of the ACH Origination Service. Under the ACH Origination service, Bank acts as the originating depository financial institution ("ODFI") with respect to entries that Client sends Bank, or entries that are sent to Bank for processing on Client's behalf. Client is the "originator" for these entries. Client agrees to comply with and be bound by all current Nacha Operating Rules & Guidelines ("Rules") which govern the ACH network. **The Nacha Operating Rules may be obtained at www.nacha.org.** If Client fails to comply with the Rules, certain fines or penalties may be imposed by Nacha; Client authorizes Bank to debit Client's designated account for any such fines or penalties without prior notice. In the event of any conflict between any term used or defined in both these ACH Origination terms and conditions and the Rules, the definition in the Rules shall apply. Client's use of a third-party service provider or processor with respect to Client's ACH Origination service is subject to Bank's prior approval and any additional documentation required by Bank. If Bank permits Client to use a third-party service provider or processor, then each reference in these ACH Origination terms and conditions to "Client" includes such third-party service provider as appropriate. Client is solely responsible for its third-party service provider's compliance with these terms and conditions.

3. Definitions. Terms that are defined in the Rules have the meanings given to those terms in the Rules. The following terms have the specified meanings for purpose of these ACH Origination terms and conditions:

a. "Authorized representative" means an individual that may be designated by Client to provide instructions (including but not limited to control totals) to Bank relating to Client's ACH Origination service.

b. "Batch" means entries that have been grouped together and that have the same effective entry date, the same Standard Entry Class (SEC) Code, and that settle to the same designated account.

c. "Cut-off deadline" means the time on a banking day by which Bank must receive an entry in order for it to process on that day. The cut-off deadline is established by Bank and may be changed at Bank's discretion.

d. "Designated account" means the account(s) designated by Client for settlement of ACH Origination activity.

e. "File Transfer" means the secure transmission of files to and from Bank using an internet browser or a secure FTP (File Transfer Protocol). The File Transfer method of transmission of ACH Origination entries to Bank may also be referred to elsewhere as ACH Origination by "direct transmission."

f. "Instruction" means any direction relating to an entry that Bank receives from an authorized representative, including requests to cancel an entry.

g. "Nacha" means the National Automated Clearing House Association.

h. "On-us entry" means an entry originated by Client to credit or debit an account maintained with Bank, which Bank elects to process as an on-us entry (as described in Section 6 below) rather than processing via the ACH network.

4. Transmitting Entries to Us. Client may transmit ACH credit and/or debit entries and instructions to Bank through one of Bank's online services which allows for ACH Origination, or by File Transfer to Bank (each method an "ACH Origination channel"). All entries must comply with (i) the requirements of the applicable ACH Origination channel, (ii) the requirements of, and be identified by the appropriate SEC Code, and (iii) applicable Nacha record format specifications and any requirements set forth in the ACH Origination reference materials. Bank may at any time prohibit Client from originating certain types of ACH entries or may restrict origination of certain entries via ACH Origination channels. Client must, for at least three (3) banking days after the effective entry date of an entry, retain all data on any file transmitted to Bank that would be required to reprocess an entry.

5. Obligations of a Third-Party Sender or Third Party Service Provider. Client must obtain Bank's approval, and execute any additional documentation or provide any additional documentation that Bank may require, before acting as a third-party sender or third-party service provider for ACH Origination, as such terms are defined in the Rules. If Client sends Bank any entries as a third-party sender or third-party service provider, Client automatically makes the additional representations and agrees to requirements for third-party senders specified in the Rules, and agrees to provide the Bank any information required to comply with the Rules. In addition to all other requirements for ACH Origination contained within these terms and conditions, the following requirements apply to Client to the extent Client sends any entries to Bank as a third-party sender or third-party service provider:

   a. Client will not transmit entries on behalf of any originator until (1) Client has obtained Bank's approval of such originator, which approval is subject to Bank's policies and procedures, and either (2) such originator and Bank have entered into an agreement for Bank to provide ACH Origination service to the originator and the originator agrees to be bound by the Rules, or such originator has entered into an appropriate agreement with Client containing such provisions as may be required by the Rules and/or Bank, and under which such originator is bound by the Rules.

   b. Bank may impose additional risk exposure limits for a Client acting as a third-party sender or third-party service provider and may monitor entries transmitted to Bank relative to the applicable exposure limits, across multiple settlement dates.

6. Bank's Processing of Entries. Except as provided later in this section with respect to on-us entries, Bank will process entries and instructions Bank receives from Client and then transmit those entries as the ODFI to an ACH operator in accordance with the terms herein. Bank will only accept entry files that pass Bank's system edit. Bank will transmit the entries to the ACH operator by its deadline prior to the effective entry date shown in the entries as long as the ACH operator is open for business on that day and Bank receives the entries (a) prior to Bank's cut-off deadline and (b) with a sufficient number of days (as specified in the ACH origination reference materials) to meet the effective entry date shown in the entries. For entries that Bank receives after those times, Bank will use reasonable efforts to transmit such entries by the ACH operator's next deadline on a banking day on which the ACH operator is open for business. If Bank chooses to process an entry as an "on-us" entry, then Bank will credit or debit the receiver's account subject to the same cut-offs and conditions stated above. For an entry that Bank chooses to process as an "on-us" entry that Bank receives after those cut-off times and deadlines, Bank will use reasonable efforts to credit or debit the receiver's account on the banking day following such effective entry date. If the effective entry date of any entry Bank receives from Client is not a banking day, Bank will process that entry on the banking day following the requested effective entry date. In Bank's sole discretion,

Bank may verify or authenticate any entry or file by any method chosen by Bank, but Bank is under no obligation to do so. If Bank is unable to verify or authenticate an entry or file, then Bank may refuse to process such entry or file.

7. Exposure Limits and Pre-Funding. Bank reserves the right to establish and change aggregate and individual dollar limits or "exposure limits" for Client's ACH Origination service entries and files. Such limits are internal limits established to monitor Bank's risk exposure to Client, and Bank may in its sole discretion, but is not required to, share such limits with Client. Bank may refuse to process entries or files that exceed the applicable exposure limits or may, in Bank's sole discretion, process such entries or files. Bank also reserves the right to change the terms upon which Bank provides ACH Origination service to Client at any time if Bank believes Client's financial condition or usage of the ACH Origination service warrants such a change, including requiring that Client pre-fund all ACH credit entries. Pre-funding means that Client must have available, collected funds in Client's designated account in an amount equal to all credit entries Client has submitted to Bank. Bank will place a hold upon the funds in the amount of all credit entries when Bank receives Client's file containing ACH credit entries. The held funds will then be withdrawn from Client's account and used to fund the ACH credits.

8. Suspension and Rejection of Entries. Bank may suspend processing of and/or reject an entry, batch or file that (a) does not comply with the Rules or these ACH origination terms and conditions, or any applicable formatting requirements; or (b) contains an effective entry date more than 45 calendar days after the day Bank receives such entry, batch or file. Bank may suspend processing of and/or reject an "on-us" entry for any reason that would allow that entry to be returned under the Rules or these terms and conditions. Bank may also suspend processing of and/or reject an entry, batch, or file if Client fails to comply with any of Client's obligations under these ACH Origination terms and conditions, including Client's obligation to maintain sufficient balances in the designated account(s). Bank may suspend processing of and/or reject an entry, batch or file without giving notice to Client.

9. Cancellation and Amendment of Entries. Client may request cancellation of an entry through certain online services or by another method as communicated to Client by Bank. In Bank's sole discretion, Bank may verify or authenticate cancellation instructions by any method chosen by Bank, but Bank is not obligated to do so. If Bank is unable to verify or authenticate a cancellation instruction, Bank may refuse to act upon such instruction. Bank has no obligation to honor or process any instructions from Client to cancel or amend an entry once Bank has received that entry. However, as an accommodation to Client, Bank will use good faith efforts to attempt to honor Client's instruction to cancel (but not to amend) an entry if (a) the instruction complies with any applicable requirements Bank may impose and (b) Bank receives such instruction at a time and in a manner that gives Bank a reasonable opportunity to act on it prior to transmitting the entry to the ACH operator or, in the case of an "on-us" entry, prior to crediting or debiting the entry to the receiver's account. Bank is not liable if a request or any attempt to cancel an entry is not successful. Client agrees to reimburse Bank for any expenses Bank may incur in attempting to honor Client's cancellation instruction.

10. Name and Account Number Inconsistency. Client must ensure the accuracy of Client's entries and instructions. If an entry describes the receiver inconsistently by name and account number, payment may be made by the RDFI (or, for an on-us entry, by Bank) solely on the basis of the account number, even if that number is associated with an account owned by a person other than the named receiver according to the RDFI's records. Bank shall have no liability for any losses associated with such inconsistency. Client is responsible for any loss associated with such inconsistency and Client's obligation to pay Bank the amount of the entry is not excused in such circumstances.

11. Notice of Returned Entries. Bank will give Client notice via the online service Client uses, or by another means, promptly after Bank receives a returned entry from the ACH operator, and Client may be charged a fee for these notices. The type of notice used will be selected during implementation of the service, or in some cases, the type of notice may be dependent upon Client's ACH Origination channel. If Client elects the Representment option of the ACH Origination service, Bank will retransmit certain types of returned entries in accordance with the Rules. Except in the case of entries retransmitted under the Representment option, Bank is not obligated to retransmit any returned entry that Bank originally transmitted in compliance with these ACH Origination terms and conditions, and if Client wants Bank to retransmit any such entry to the ACH Operator, Client must retransmit the entry to Bank.

12. Notifications of Change. Promptly after Bank receives a notification of change relating to one of Client's entries, Bank will give Client notice of the notification of change via the online service Client uses, or by another means; Client may be charged a fee for these notices. The type of notice used will be selected during implementation of the service, or in some cases, the type of notice may be dependent upon Client's ACH Origination channel. Client agrees to make the required change(s) prior to submitting any further entries to the applicable receiver's account.

13. Security Procedures. The security procedures for the ACH Origination service are described below. Client agrees that use of the service constitutes acceptance of the below security procedures.

    a. Control Totals. For ACH entries sent to Bank via File Transfer, Client is required to verify the total dollar amounts for all debit entries and, separately, for all credit entries contained in each file by submitting to Bank the total dollar amount for each, or the "control totals." The file will not be released for processing until an accurate control total is submitted. Except for files transmitted in or to be converted into an EDI format, Client must submit control totals through either the ACH File Control Total feature of the ACH Fraud Control service, or Bank's ACH Control Total Verification ("ACTV") system. Control totals submitted via ACH File Control Total or ACTV must comply with the requirements of the respective method of submission. If Client's file is transmitted in or to be converted into an EDI format, Client's authorized representative will be required to provide control totals to Bank according to the method required by Bank. If Client uses a third-party service provider or processor to send entries to Bank via File Transfer in a file that also contains entries being initiated on behalf of other clients of the third-party service provider, then Client's third-party service provider may provide Bank control totals on an aggregate basis for all entries contained in that file.

    b. Online Services. For ACH entries that are transmitted to Bank through one of Bank's online services, Client is required to comply with the applicable security procedures for that online service, as set forth in the terms and conditions for the online service.

    c. File Transfer. For entries transmitted by File Transfer, a logon record with a unique ID and password is required. The ID and password are provided to Client at the time of establishment of the File Transfer application. If Client uses a third-party payment provider or processor that sends Client's entries to Bank via File Transfer in a file that also contains entries being initiated on behalf of other clients, then Client's third-party service provider will use the ID and password that Bank issues directly to the provider.

14. Security Requirements. Client is required to establish, implement, and, as appropriate, update security policies, procedures, and systems related to the initiation, processing, and storage of entries. These policies, procedures and systems must:

    a. protect the confidentiality and integrity of Protected Information (as defined in the Rules) until its destruction;

    b. protect against anticipated threats or hazards to the security or integrity of Protected Information until its destruction; and

    c. protect against unauthorized use of Protected Information that could result in substantial harm to a natural person.

    Such policies, procedures and systems must include controls that comply with applicable regulatory guidelines on access to all systems used by Client to initiate, process and store entries.

    In addition, if Client's total ACH origination or transmission volume (including Client's volume through Bank as well as any other financial institution) exceeds the applicable threshold in the Rules, Client must protect depository financial institution account numbers used in the initiation of entries by rendering them unreadable when stored electronically, as more specifically described in the Rules.

15. Payment for Entries. Client must pay Bank the amount of each credit entry Bank originates on Client's behalf and Bank will pay Client the amount of each debit entry that Bank has originated on Client's behalf, all at such times as Bank may determine and in accordance with the Rules. Client must also pay Bank (at such time as Bank may determine) the amount of each debit entry Bank has originated on Client's behalf that is returned by the RDFI. Bank may, without notice or demand, and Client authorizes Bank to, (a) debit any designated account for amounts that Client owes Bank under these ACH Origination terms and conditions and (b) credit any designated account for the amount of (i) originated debit entries and (ii) returned entries previously debited from any designated account. Client must at all times maintain sufficient collected funds in the designated account(s) to cover Client's payment obligations to Bank. If Client's obligations to Bank at any time exceed such funds in the designated account(s), Bank may refuse to process entries and suspend the ACH Origination service until Client deposits sufficient funds and/or Bank may debit or place a hold on funds in any account Client maintains with Bank. Bank has the right to net any amount Bank owes Client against obligations Client owes to Bank.

16. Representations for all Entries. Client makes the following representations to Bank with respect to each entry Client sends Bank:

    a. the receiver designated in the entry authorized Client to initiate the entry to credit or debit its account in the amount and on the effective entry date of the entry,

b. the receiver's authorization is and will remain effective until the receiver's account is debited or credited,

c. the entry conforms to Client's obligations under the Agreement, these ACH Origination terms and conditions, the Rules, and the ACH Origination reference materials,

d. the entry complies with and does not violate applicable laws and regulations (including those relating to sanctions programs), and

e. Client has performed a reasonable examination of Client's receiver relationships to identify transactions with those receivers which must be originated using the IAT SEC Code.

Client agrees to be bound by the Rules and acknowledges that payment of an entry by the RDFI to the receiver is provisional until the RDFI receives final settlement for such entry and that, if such settlement is not received, the RDFI will be entitled to a refund from the receiver of the amount credited and, in such case, Client will not be deemed to have paid the receiver the amount of the entry.

For each entry that Client sends Bank, Client warrants that the entry uses the appropriate SEC Code, and meets all requirements for that SEC Code as set forth in the Rules, including but not limited to the following: (i) the entry was properly authorized per the requirements for the applicable SEC Code, (ii) Client will retain a copy or evidence of the authorization as required by the Rules for the applicable SEC Code, (iii) Client will verify any information relating to the entry and perform any fraud prevention or other obligations as required by the Rules for the applicable SEC Code, and (iv) Client makes any representations or warranties relating to the entry as required by the Rules.

17. International ACH Transaction (IAT) Entries. If Client sends Bank an IAT entry, Client represents and warrants to Bank and agrees:

a. The entry will be identified by, and will comply with the requirements of, the IAT SEC Code, including complying with all Nacha record format specifications for the IAT entry.

b. If Client originates an entry using another SEC Code and Bank determines in good faith the entry should have been originated using the IAT SEC Code, in addition to any other rights Bank may have, Bank may suspend the processing of and/or reject the entry (or batch or file containing the entry) and Bank may also suspend and/or terminate Client's ACH Origination service immediately without prior notice. Similarly, a gateway operator or ACH operator may suspend the processing of and/or reject an entry that it determines should have been originated as an IAT entry.

c. Client is in compliance with, and the entry complies with, all applicable United States laws and regulations, including sanctions and other programs administered by the U.S. Department of Treasury's Office of Foreign Asset Control (OFAC) and Financial Crimes Enforcement Network (FinCEN).

d. Client is in compliance with, and the entry complies with, the laws, regulations, and payment system rules of the receiving country, including any requirement to obtain the receiver's written, oral, or electronic authorization, for the receiver's authorization to be validly signed, for the receiver's authorization to be in proper form to authorize the foreign RDFI to debit the receiver's account, to provide notice of the entry prior to it settling in the receiver's account, to provide notice to the receiver of the receiver's recourse and other provisions relevant to the receiver, and to obtain a separate authorization from the receiver for each debit entry initiated at sporadic times, instead of set intervals.

e. In addition to any other rights Bank has, if Bank suspects or determines that the entry does not comply with any applicable laws or regulations, the Rules, or any other payment system rules (including those laws and regulations relating to sanctions programs), Bank may suspend processing of and/or reject the entry and hold funds debited from or to be credited to Client's account for the entry.

f. Client will maintain either the original or a copy of any authorization required from the receiver for the entry for the longest period of time Bank may be required to produce that authorization under any of the Rules, the laws and regulations of the U.S., and the laws, regulations, and payment system rules of the receiving country. Client will provide a copy or evidence of the authorization required from the receiver of the entry within a reasonable time upon Bank's request.

g. If the entry is an outbound IAT entry, Client authorizes the gateway operator to transmit the entry to the foreign gateway operator and to arrange for the settlement of the entry with the foreign gateway operator, for further transmission to, and settlement with, the foreign RDFI for credit or debit of the amount to or from the receiver's account.

h. If the entry is an outbound IAT entry and Bank does not have an agreement for processing IAT entries with the domestic RDFI that serves as the gateway operator for the entry, it may result in either Bank or the gateway operator suspending the processing of and/or rejecting the entry or the batch or file in which the entry is contained.

i. Client bears sole responsibility for all losses and other risks relating to foreign exchange conversion with respect to the entry.

j. In addition to any other indemnity obligations Client has under the Agreement or these ACH Origination terms and conditions, Client will defend, indemnify, protect and hold Bank, Bank's affiliates, and Bank's officers, directors, employees, attorneys, agents, and representatives harmless from and against any and all liabilities, claims, damages, losses, demands, fines, judgments, disputes, costs, charges, and expenses which relate in any way to (i) any IAT entry (or requests or instructions related to an IAT entry) Client sends to Bank that does not comply with all applicable laws and regulations, the Rules, and the payment system rules of the receiving country, or (ii) any breach of any representation, warranty, or agreement Client has made related to an IAT entry. Without limiting the foregoing, Client agrees that Client is liable for and will reimburse Bank for all amounts that may be erroneously paid by Bank or any receiving bank in respect of any entry erroneously credited or debited by Bank or any receiving bank pursuant to any IAT entry Client originated, or related instructions of Client and any claim paid by Bank (including any claim for interest) as a result of a declaration of a receiver or other person alleging that an IAT entry was not originated in accordance with the receiver's authorization, the receiver's authorization was revoked, a required notification was not given in sufficient time before the entry was processed to the account of the receiver, or no valid authorization ever existed between the receiver and Client.

k. Due to IAT entry processing requirements, processing of an IAT entry may be delayed or suspended. Any such delay or suspension may affect the settlement of and availability of funds for an IAT entry. Client must transmit IAT entries to Bank in files comprised solely of IAT entries. In addition to any other limits on Bank's liability, Bank will not have any liability for any delay in or suspension of processing or rejection of an IAT entry or file containing an IAT entry, in accordance with Bank's processing requirements for IAT entries or applicable law, or for the actions of any third parties (including any gateway operator or ACH operator) resulting in the delay in or suspension of processing or rejection of an IAT entry.

l. A gateway operator may return the entry after the period of time for the return of an IAT entry provided in the Rules, and Client agrees Bank may settle that return to Client's designated account.

18. Proof of Authorization. Within five (5) days of Bank's request, Client will provide Bank with an accurate record evidencing the receiver's authorization (or in the alternative, Client's contact information, when permitted by the Rules).

19. Audit Rights. At any time, upon two days' prior notice, Bank may perform a remote or onsite audit of Client's systems, procedures, controls, and records as Bank deem necessary to determine Client's compliance with the Rules and these ACH Origination service terms and conditions. Client will provide Bank with reasonable assistance and information to conduct such audit, including reasonable access to operating systems, policies, procedures, records, and other materials.

20. Same Day ACH Option.

a. Description of the Same Day ACH Option. "Same Day ACH" is an option of the ACH Origination service that allows the Client to submit ACH credit and/or debit entries for same-day processing. Upon approval by Bank, Client may elect to use Same Day ACH for ACH Origination channels and/or accounts as designated to Bank. Client's election to use Same Day ACH may apply to all accounts within a designated ACH Origination channel, or Bank may allow Client to select specific accounts for Same Day ACH. Same Day ACH may not be available for all ACH Origination channels.

b. Requirements. In order for an ACH entry to be processed as a Same Day ACH entry, (i) Client must have elected Same Day ACH for the applicable ACH Origination channel and designated account; (ii) the effective entry date must be the same date (or earlier date, also known as a "stale-dated" entry) as the banking day that Client submits the entry to Bank; (iii) Client must submit the entry to Bank before the cut-off deadline for Same Day ACH processing as specified in the reference materials; and (iv) Client must meet all requirements for Same Day ACH set forth in the Rules (including but not limited to any transaction limits or restrictions on particular SEC Codes), these terms and conditions, and the applicable reference materials. In the event an ACH entry submitted by Client that is intended for same-day processing does not meet these requirements, but otherwise meets applicable requirements in these terms and conditions for ACH Origination, the entry

will be processed by Bank, but not on a same-day basis. Same Day ACH can only be transmitted in a batch containing only Same Day ACH entries.

c. Same Day ACH Fees. In the event that an entry that Client submits as a Same Day ACH entry is not processed on a same-day basis as a result of Client's failure to meet applicable requirements for Same Day ACH, or the file suspending due to errors on Client's part (e.g., control total missing or incorrect, or insufficient funds in Client's account), then Client may be charged the applicable Same Day ACH fee for the entry, regardless of whether the entry is processed the same day Client submitted it to Bank or not.

d. Processing.

i. If Client submits a Same Day ACH entry to Bank according to the requirements set forth herein, Bank will use commercially reasonable efforts to transmit the entry to the ACH operator by deadline for same-day processing and settlement. However, certain delays or suspensions (including but not limited to system outages, delays due to reasonable internal Bank review for suspected fraud, anti-money laundering or other review) may prevent entries from being processed on a same-day basis. Accordingly, Client acknowledges and agrees that same-day processing is not guaranteed. Client agrees that Bank will have no liability due to the fact that such entry was not processed on a same-day basis for any reason, provided that Bank otherwise processes the entry according to these terms and conditions.

ii. If the Client has opted in to the Same Day ACH option for a designated account, any entry with a same-day or stale-dated effective entry date that is processed by Bank during a Same Day ACH processing window (A) will be considered a Same Day ACH entry; and (B) will be assessed the applicable Same Day ACH fee. Client must ensure that accurate effective entry dates are used for all of Client's ACH entries, as the effective entry date is used to determine whether an entry will be processed on a same-day basis.

iii. If Client has opted to use Same Day ACH for a designated account but wishes to submit an entry to be processed on a next-day (or later) basis, then Client must ensure that the effective entry date for such entry corresponds with the intended settlement date.

Account Reconciliation Plan Service

1. Description of Account Reconciliation Plan Service. The Account Reconciliation Plan ("ARP") service (full reconciliation, partial reconciliation or deposit reconciliation) assists Client in reconciling accounts by exchanging information with Bank regarding checks that Client has issued against Client's accounts and checks deposited into Client's accounts. Details regarding the functionality of the ARP service and formatting and other technical requirements for the service are provided in the ARP reference materials.

2. Operations of the Service. Client will designate the ARP service options for each account included in the service. All check, deposit or other information exchanged between Client and Bank in connection with the service must be transmitted electronically in the format specified by Bank. Check, deposit and other information Client sends must be received by Bank no later than the cutoff time for such information reflected in the ARP reference materials. Client may select a monthly, weekly or bi-weekly statement cycle for each account included in the service. If Client fails to designate a statement cutoff on Bank's ARP calendar, the default statement cycle will be monthly with a cutoff at the end of each calendar month.

BAI Transmission Service

1. Description of BAI Transmission Service. The BAI Transmission service is a Machine-to-Machine (M2M) information reporting service that provides Client balance, summary, and high-level transaction detail for posted account activity via BAI2 (BAI version 2) files. BAI2 is a file format developed by the Bank Administration Institute (BAI) as a common format for exchanging data. Bank supports the BAI2 standards for balance, summary, and detail information. BAI2 files are delivered over the internet by direct transmission of Client's formatted files into Client's accounting, treasury management workstation or Enterprise Resource Planning ("ERP") system.

   Client may elect Previous Day and/or Current Day BAI2 data files. The daily Previous Day BAI2 data file includes balance, summary and high-level transaction details for posted account activity. Current Day BAI2 data files

include data sets as described in the File Delivery section below. Details regarding functionality and formatting of the service are provided in the BAI Transmission reference materials.

2. Use of the BAI Transmission Service. Client may use the BAI Transmission service with respect to the accounts that are identified during implementation of the service. BAI Transmission is a separate and distinct reporting channel from other BAI reporting services offered by Bank through online or digital services, and BAI Transmission is not intended as replacement functionality for those other, non-M2M BAI reporting services.

3. File Delivery. Previous Day files are created and distributed to via direct transmission Tuesday through Saturday mornings. Files are not provided on days following a non-banking day.

   Current Day BAI2 file content may be based on cumulative or incremental data sets. If Client elects to receive cumulative data, Bank offers multiple release windows from which to choose a custom schedule. Files are available Monday through Friday (excluding non-banking days) between 8 a.m. ET and 11:45 p.m. ET. If Client requires incremental data or net-new transactions since the time of last transmission, file delivery must start at the opening of the banking day and will be refreshed through predefined intervals through the day. Files are available Monday through Friday (excluding non-banking days) between 8 a.m. ET and 11:45 p.m. ET. Based on the selected file delivery schedule, actual transaction data contained in each Current Day BAI2 file transmitted may vary due to timing differences in comparison with current day reporting via Bank's online or digital channels. Client should use final posted transaction details from the Previous Day BAI2 data file for official posting to the Client's accounting, treasury management workstation, or ERP system.

Business Associate Agreement

1. Business Associate Agreement. This Business Associate Agreement ("BAA") is incorporated into the Truist Treasury Management Agreement ("TMA", and, with the other documents incorporated therein by reference, the "Agreement"). This BAA applies only to Client if Client is a Covered Entity, and applies only to the treasury management services that, when provided to Client by Bank, result in Bank's classification as a Business Associate. Such treasury management services are referred to in this BAA as covered services. This BAA does not apply to any Client that is not a Covered Entity, and does not apply to any services Bank provides to a Covered Entity that are not considered covered services. This BAA shall be effective as of the date that Bank provides any covered services to Client, if Client is a Covered Entity. Certain definitions for terms used in this BAA are included at the end of the BAA.

2. Introduction.

   a. In connection with the covered services, Covered Entity anticipates that Business Associate may receive PHI from or on behalf of the Covered Entity that is subject to protection under the Act.

   b. The purpose of this BAA is to establish protections for the privacy and security of PHI that is used by and/or disclosed to the Business Associate in connection with the covered services.

   c. If the parties previously entered into any business associate agreement, then this BAA shall not apply to any covered services which are governed by such previous business associate agreement, unless such existing business associate agreement is terminated by the parties or is amended to incorporate the terms herein. To the extent Business Associate provides covered services to Covered Entity which are not governed by a previous business associate agreement, then this BAA shall apply as of the date Business Associate provides such covered services to Covered Entity.

3. Privacy & Security of Protected Health Information.

   a. Permitted Uses and Disclosures. Business Associate is permitted or required to Use and Disclose PHI it receives from or on behalf of Covered Entity, or requests on Covered Entity's behalf only as follows:

      i. Functions and Activities on Covered Entity's Behalf. Covered Entity has requested that Business Associate perform the covered services associated with a banking or treasury management relationship. However, Business Associate may perform other activity for that relationship where PHI is incidentally provided to Business Associate or is excepted by the Act ("Exclusions"). The Exclusions are agreed to be Incidental Use and Disclosures, not subject to the terms of this BAA.

      ii. Business Associate's Operations. Business Associate may Use and Disclose PHI for all reasonable activity associated with Business Associate's performance of the covered services, proper management

and administration, or to carry out Business Associate's legal responsibilities. Additionally, Disclosure is permitted only if:

1) the Disclosure is Required by Law; or

2) Business Associate obtains reasonable written assurance that:

a) the PHI will be held in confidence and further Use or Disclosure will be only for the original purpose for which the PHI was Disclosed to Business Associate or as Required by Law;

b) Business Associate will be promptly notified in the event the confidentiality of the PHI is breached; and

c) to the extent for any purpose authorized by an Individual under 45 C.F.R. § 164.508.

b. Receipt of PHI. Covered Entity will limit Disclosure of PHI to Business Associate to only the Minimum Necessary amount of PHI required or requested by Business Associate in providing the covered services. Upon termination of this BAA, the covered services, or Agreement, Covered Entity shall take all necessary steps to ensure that PHI is no longer provided, sent, or accessible to Business Associate.

c. Prohibition on Unauthorized Use or Disclosure. Business Associate will not Use or Disclose PHI except as permitted or Required by Law, this BAA, or as otherwise permitted in writing by Covered Entity.

d. Information Safeguards. Business Associate will use commercially reasonable efforts to implement and maintain administrative, technical, and physical safeguards ("Safeguards") designed to achieve compliance with 45 C.F.R. Part 164, Subparts C & E, and the HITECH Rules.

e. Subcontractors and Agents. Business Associate will require its subcontractors and agents to provide reasonable written assurance that the subcontractor or agent will comply with the same restrictions and conditions that apply to Business Associate with respect to the PHI as required by 45 C.F.R. § 164.504. Business Associate shall enter into a Business Associate Agreement with each of its Subcontractors, which meets these requirements.

f. Inspection of Books and Records. To the extent available according to Business Associate's retention schedule, Business Associate will allow DHHS to access its internal practices, books, and records, relating to its Use and Disclosure of PHI received from, or created or received by Business Associated on behalf of, Covered Entity, for the purpose of determining Covered Entity's and Business Associate's respective compliance with HIPAA. Business Associate will retain records according to its standard retention schedule and according to applicable regulatory requirements.

4. Individual Rights Requests.

a. Access. Business Associate shall, within thirty (30) calendar days after Covered Entity's request, make available in a mutually agreed upon format for inspection and copying, any PHI maintained in a Designated Record Set in the Business Associate's custody or control, that will enable Covered Entity to meet its access obligations under 45 C.F.R. § 164.524.

b. Amendment. Business Associate shall, within thirty (30) calendar days after receipt of notice from Covered Entity, promptly amend or permit Covered Entity access to amend any portion of the PHI maintained in a Designated Record Set in Business Associate's custody or control that will enable Covered Entity to meet its amendment obligations under 45 C.F.R. § 164.526.

c. Disclosure Accounting. Business Associate will maintain a process to provide Covered Entity an accounting of Disclosures that will enable Covered Entity to meet its disclosure accounting obligations under 45 C.F.R. § 164.528. Except for Disclosures that are exempted from the disclosure accounting requirements under HIPAA, Business Associate will make the legally required disclosure accounting information available as soon as possible, but not later than thirty (30) days after Covered Entity's written request.

d. Restriction Requests; Confidential Communications. Business Associate will comply with any Individuals' requests for restrictions and confidential communications to which Covered Entity has agreed pursuant to 45 C.F.R. § 164.522 (a) and (b), and of which Covered Entity has notified Business Associate in writing.

e. Responses to Individual Rights Requests. Covered Entity shall be solely responsible for responding to all Individual Rights Requests and communication regarding PHI, unless agreed to otherwise in writing between the parties. Covered Entity will not refer any Individuals directly to Business Associate. If Business Associate

receives any Individual Rights Requests directly from an Individual, Business Associate may refer such Individual to the Covered Entity, but shall have no liability for the failure to do so.

f. Fees. Business Associate may charge a reasonable fee to cover the costs of fulfilling Covered Entity's requests under this Section B, Individual Rights Requests.

5. Breach of Unsecured PHI.

a. Breach. In the event of a Breach of Unsecured PHI, Business Associate shall pursuant to the requirements set forth in subsection 2 below, provide written notice of the Breach to Covered Entity.

b. Notice Requirements. In the event of a Breach, written notice shall be sent to Covered Entity within thirty (30) calendar days of discovering such Breach (even if at such time Business Associate does not have all the details concerning the Breach). The notice shall contain the information required by 45 C.F.R. § 164.404(c), and any other additional and relevant information reasonably requested by Covered Entity so Business Associate and Covered Entity can comply in all respects with the Breach Notification Rule. The notice shall contain:

i. the date that a Breach was discovered, as determined by Business Associate in its reasonable discretion in accordance with the provisions of the Breach Notification Rule;

ii. a brief background and description of the Breach. Thereafter, Business Associate may follow up with additional information required under this subsection when such information becomes available;

iii. the nature of the PHI involved in the Breach; and

iv. a brief description of the mitigation and remediation efforts.

c. Security Incident. Upon written request, Business Associate shall, within thirty (30) calendar days, report to the Covered Entity any attempted or successful event Business Associate has become aware of for the time period specified in Covered Entity's request involving (a) unauthorized access, Use, Disclosure, modification, or destruction of PHI associated with Covered Entity, or (b) any interference with system operations in Business Associate's Information System containing PHI associated with Covered Entity, collectively a Security Incident as defined herein. The report provided by Business Associate shall include any Security Incidents relating to PHI associated with Covered Entity for the time period requested by Covered Entity, up to (but not beyond) the date the request is made. If the Security Incident resulted in a Breach, then notice shall be provided in accordance with Section C.2 above. Covered Entity acknowledges that this Section C.3 constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents. Notwithstanding any of the foregoing provisions, Covered Entity agrees that Business Associate shall not be required to provide any additional reports of Unsuccessful Security Incidents to Covered Entity.

d. Mitigation. Business Associate agrees to take reasonable steps to mitigate, at its expense and to the extent practicable, any known harmful effects resulting from a Breach or Security Incident made known to Business Associate, not to exceed (6) six months of fees paid to Business Associate for the covered service associated with the Breach or Security Incident.

e. Reporting Obligations. Business Associate's only notification obligation under this Section C is to report Breaches and Security Incident as required herein to Covered Entity. Covered Entity shall be solely responsible to report a Breach or Security Incident to the affected Individuals, media outlets, DHHS, and other federal and state agencies if required by applicable law. If Covered Entity refers to or names Business Associate in any public notice or report, Covered Entity shall provide a copy of such notice or report to Business Associate prior to its release or publication.

6. General.

a. Termination of Agreement. Either party may terminate this BAA by terminating the Agreement per the applicable termination provisions within the Agreement. This BAA will also be deemed terminated if Business Associate ceases to provide any covered services to Covered Entity.

b. Obligations upon Termination.

i. Return or Destruction. Subject to Business Associate's standard record retention policies, upon any termination of this BAA, Business Associate will, if feasible, return or destroy all PHI in whatever form or medium (including any electronic medium) and all copies thereof upon request of Covered Entity. Business Associate and Covered Entity will mutually agree upon a reasonable time frame for the return

or destruction of the PHI, which time period will not exceed one hundred and twenty (120) calendar days from date of termination effectiveness.

ii. Return/Destruction Not Feasible. To the extent Business Associate determines in its reasonable discretion that the return or destruction of PHI is not feasible, Business Associate will limit its further Use or Disclosure of PHI to those purposes that make return or destruction of the PHI infeasible.

iii. Continuing Privacy Obligation. Business Associate's obligation to protect the privacy of the PHI that was provided to Business Associate prior to any termination of this BAA shall survive such termination, for so long as Business Associate possesses the PHI. However, Business Associate shall have no obligations with respect to PHI disclosed to it after termination of this BAA, the covered services, or the Agreement.

c. Liability. Liability of Business Associate and Covered Entity under this BAA shall be governed by the applicable terms of the Agreement. This BAA shall not expand or limit the liability of either Covered Entity or Business Associate beyond the liability set forth in the Agreement, except as specifically stated otherwise herein.

d. Amendment to Agreement. Upon the effective date of any final regulation or amendment to the Act that would change the terms of this BAA with respect to PHI, this BAA shall be automatically amended to incorporate any regulations or amendment that relate to the obligations of Business Associate.

e. No Third Party Beneficiaries. There are no intended third party beneficiaries under this BAA.

f. Notices. Any notice required or permitted to be given by this BAA, must be in writing and must be provided per the notice terms of the Agreement. Business Associate shall use reasonable efforts to provide a copy of any such notices to the Privacy Official of Covered Entity, if Business Associate has been provided contact information for such individual by Covered Entity, but Business Associate shall have no liability for failure to provide notice to the Privacy Official if Business Associate has otherwise complied with its notice obligations herein.

g. Record Retention. Business Associate shall not be obligated to maintain any records containing PHI received from Covered Entity for longer than is required by Business Associate's record retention policies, which shall comply with applicable regulatory requirements. Business Associate's failure to comply with its obligations under this BAA due to the fact that a record or the PHI contained within a record has been destroyed in accordance with the Business Associate's normal record retention practices shall not be considered a breach of this BAA.

h. Entire Agreement. This BAA, as incorporated into the Agreement, is the entire agreement between the parties with respect to the parties' obligations to protect PHI under the Act.

i. Relationship to the Agreement and Confidentiality Agreement. This BAA is intended to address only the privacy and security of PHI. The parties may have entered a separate confidentiality agreement with respect to the Disclosure, receipt and Use of other Confidential Information (as defined in the applicable confidentiality agreement). To the extent there is a conflict between this BAA and the provisions of the Agreement, or between this BAA and any separate confidentiality agreement, this BAA shall control with respect to the protection of PHI and the obligations of HIPAA which may be applicable to the covered services. The terms of this BAA, the Agreement, and any separate confidentiality agreement shall be construed in a manner to achieve compliance with HIPAA and any applicable state privacy laws governing the protection of medical information that are not pre-empted by HIPAA.

j. Applicable Law. The provisions of this BAA shall be construed under the Act. To the extent the Act is not applicable, the applicable laws provisions of the Agreement shall govern.

7. Definitions. Capitalized terms used in this Agreement shall have the following meanings. Any other capitalized terms not identified here shall have the meaning as set forth in the Act as may be amended or revised from time to time, including amendments by the Secretary.

a. "Act" shall mean collectively HIPAA, HITECH Act, HIPAA Regulations, and HITECH Rules.

b. "Breach" shall have the meaning given to it by 45 C.F.R. § 164.402.

c. "Breach Notification Rule" shall mean the "Standards for Breach Notification for Unsecured Protected Health Information," 45 C.F.R. Part 164, Subpart D.

d. "Business Associate" shall have the meaning given to it by 45 C.F.R. § 160.103.

e. “Covered Entity” shall have the meaning set out in 45 C.F.R. § 160.103.

f. “DHHS” means the United States Department of Health & Human Services.

g. “Disclose” and “Disclosure” mean, with respect to PHI, release, transfer, providing access to, or divulging to a person or entity not within Business Associate.

h. “HIPAA” shall mean the Health Insurance Portability and Accountability Act of 1996.

i. “HIPAA Regulations” shall mean the HIPAA implementing regulations in 45 C.F.R. Parts 160-64.

j. “HITECH Act” shall mean the provisions of the Health Information Technology for Economic and Clinical Health Act contained in Title XIII, Subtitle D of the American Recovery and Reinvestment Act of 2009. A reference to the HITECH Act shall also include any HITECH Rules related thereto.

k. “HITECH Rules” shall mean any regulations issued pursuant to the HITECH Act by DHHS, including the Breach Notification Rule.

l. “Incidental Use and Disclosure” shall meaning set out in 45 CFR § 164.502(a)(1)(iii).

m. “Individual” shall mean the person who is the subject of PHI and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

n. “Individual Rights Requests” shall mean requests by individuals for Access, Amendment, Disclosure Accounting, and Restriction as permitted by 45 C.F.R. § 164.500, et seq.

o. “Minimum Necessary” shall have the meaning set out in 45 C.F.R. § 164.502.

p. “PHI” or “Protected Health Information” shall have the meaning provided by HIPAA, 45 C.F.R. s. 160.103, but limited to that information received, maintained, transmitted or created by Business Associate from or on behalf of Covered Entity.

q. “Privacy Official” shall mean the person designated by the Covered Entity or Business Associate to serve as its Privacy Official within the meaning of 45 C.F.R. § 164.530(a), and any person to whom the Privacy Official has delegated any of his or her duties or responsibilities.

r. “Privacy Rule” shall mean the “Standards for Privacy of Individually Identifiable Health Information,” 45 CFR Part 160 and Part 164, Subparts A and E.

s. “Required by Law” shall have the same meaning given to it in 45 C.F.R. § 164.103.

t. “Secretary” shall mean the Secretary of DHHS.

u. “Security Incident” shall have the meaning in 45 C.F.R. § 164.304.

v. “Security Rule” shall mean the “Security Standards for the Protection of Electronic Protected Health Information,” 45 CFR Part 160, Subpart A, and Part 164, Subparts A and C.

w. “Covered Services” shall mean the activities, functions and/or services that Business Associate from time to time renders to or on behalf of Covered Entity to the extent that those activities, functions and/or services are covered by HIPAA.

x. “Unsecured PHI” shall mean PHI that is not secured through the use of a technology or methodology that renders such PHI unusable, unreadable or indecipherable to unauthorized individuals as specified in guidance issued pursuant to Section 13402(h) of the HITECH Act, including the Breach Notification Rule.

y. “Unsuccessful Security Incident” shall mean a ping or other broadcast attack on Business Associate’s firewall, port scans, unsuccessful log-on attempts, denials of service, and any combination of the above, so long as any such incident does not result in unauthorized access, use, or disclosure of PHI.

z. “Use” shall mean, with respect to PHI, utilization, employment, examination, analysis or application by Business Associate.

Cash Concentration Service

1. Description of Cash Concentration Service. The Cash Concentration service or "CashCon" service allows the Client to manage balances in accounts at other financial institutions by sending debit entries to those accounts

through the automated clearing house ("ACH") network. Details regarding CashCon's functionality and service requirements are provided in the CashCon reference materials.

2. Functioning of the CashCon Service. Under the CashCon Service, the Bank originates ACH debit entries on behalf of Client that are directed to accounts designated by Client to be included in the service, each a "reporting location account". Debit entries directed to a reporting location account are "concentration" entries. The destination of any concentration entry (the account used as the settlement account for such entries) is the Truist account designated by Client and referred to as the "designated account." The Client will be the "originator" and Bank will be originating depository financial institution or "ODFI" for each of the concentration entries. Client's use of the CashCon service is subject to the terms and conditions for the ACH Origination service.

3. Implementation of CashCon Setup. A single reporting location account must use only one designated account to settle concentration entries. However, if Client has more than one reporting location account, each reporting location account may use a different designated account or a single designated account to settle concentration entries for those reporting locating accounts.

4. Origination and Processing of Entries. Client must send all concentration entries to the Bank by using one of the delivery methods offered by Bank, as described in the reference materials. Any concentration entries received after the daily cut-off time set forth in the CashCon reference materials will be treated as received on the next business day. Bank will format, process and settle to the relevant designated account all concentration entries that Bank receives from the Client in accordance with these CashCon terms and conditions and the terms and conditions for the ACH Origination service, including the Nacha rules referenced therein.

5. Security Procedures. The security procedures for the CashCon service require that Client's users use the authorization codes provided to Client to send concentration entries through any delivery method for the applicable reporting location account. Certain authorization codes may not be unique to Client, but the combination of authorization codes is unique to each Client. The authorization codes are not user-specific; this means that all of Client's users will use the same set of authorization codes to initiate a concentration entry for a particular reporting location account. Bank will send the authorization codes to the individual designated by Client. Client agrees that use of the service constitutes acceptance of the below security procedures.

6. ACH Origination Service. These CashCon terms and conditions are expressly made a part of the terms and conditions for the ACH Origination service and are subject to the terms and conditions thereof. Terms defined in the ACH origination terms and conditions have the same meanings when used herein. Any inconsistency on a particular issue between these CashCon terms and conditions and the terms and conditions for the ACH Origination service shall be resolved in favor of the CashCon terms and conditions.

Cash Vault Service

1. Description of Cash Vault Service. The Cash Vault service is designed to facilitate Client's cash and deposit needs. Details regarding the Cash Vault service's functionality and certain requirements that Client must follow when using the Cash Vault service are provided in the Cash Vault reference materials.

2. Definitions. The following terms have the specified meanings for the purposes of these Cash Vault terms and conditions:

   a. "Account" means the account(s) designated by Client to which deposits will be made and from which cash orders will be funded.

   b. "Armored courier" means the armored courier selected by Client who acts as Client's agent and transports deposit bags and cash orders for deposit to Bank.

   c. "Authorized user" means any person that Client is deemed to have authorized to place cash orders up to the applicable order limit

   d. "Change orders" means those orders Client gives Bank for the delivery of U.S. coins or currency by armored courier.

   e. "Cash vault(s)" means the cash vault(s) that Bank has designated as serving Client's business location(s).

   f. "Contaminated currency" means any currency which the Federal Reserve Bank classifies as contaminated, including any currency damaged by or exposed to a contaminant hazard (including any chemical, radioactive

or biological substances) that may present a health or safety risk, or that cannot be processed under normal operating procedures.

g. "Deposits" means the funds that Client delivers to the cash vault that are to be processed for deposit in accordance with these Cash Vault terms and conditions.

h. "Funds" means U.S. coins, currency, checks and other negotiable items.

i. "Mutilated coins" means any coins that have been bent or twisted out of shape, punched, clipped, plugged, fused or defaced but that can be identified as to genuineness and denomination.

j. "Mutilated currency" means any currency that has been damaged to the extent that one-half or less of the note remains, or its condition is such that its value is questionable and special examination is required before any exchange is made.

k. "Order limit" means the maximum dollar value of change orders that may be requested on any business day for each of Client's locations.

3. Client's Obligations Related to Deposits.

a. Client must collect and count funds and place them in a sealed, disposable deposit bag(s) or similarly designed tamper-proof bag(s) (each such bag is referred to in these terms and conditions as a "sealed deposit bag") clearly marked with Client's name or identification number. Each sealed deposit bag must be prepared in accordance with the requirements set forth in the Cash Vault reference materials. A deposit ticket listing Client's name, deposit account number and the amount of funds must be included in each sealed deposit bag.

b. Client must cause sealed deposit bags to be delivered by the armored courier to the appropriate cash vault for each of Client's locations. Bank may reject, impose a special fee on, and/or delay processing of any sealed deposit bag if (i) the deposit ticket does not match the amount contained in the sealed deposit bag, (ii) the sealed deposit bag was not prepared in accordance with the requirements set forth in the Cash Vault reference materials, (iii) the sealed deposit bag is delivered to the wrong cash vault, (iv) the sealed deposit bag is delivered by anyone other than the Client's designated armored courier or (v) any sealed deposit bag appears to be unsealed or to have been tampered with.

c. In the event that Bank accepts delivery of an unsealed deposit bag or a sealed deposit bag that appears to have been tampered with (each such bag is referred to in these terms and conditions as an "unsealed deposit bag"), and unless Client has previously given Bank instructions on how to process unsealed deposit bags, Bank will not process or take any action regarding an unsealed deposit bag until Client gives Bank an instruction regarding processing of the unsealed deposit bag.

4. Bank's Obligations for Processing Deposits.

a. Bank will process each sealed deposit bag after delivery to the cash vault. Bank will open each sealed deposit bag, verify the contents against the deposit ticket and deposit from the bag the funds that qualify for deposit into the relevant account. Client's actual deposit is not made until such verification is completed at the cash vault and the deposit is posted to Client's account. If there is any discrepancy between the amount reflected on the deposit ticket and the amount counted by Bank, or any discrepancy between the contents of the bag and information that is otherwise reported to or made available to Bank, Bank's count will be final. Without limiting the generality of the foregoing sentence, in certain situations, based upon data that Client (or a third party) has provided to Bank with respect to Client's cash to be deposited via the Cash Vault service, Bank may provide Client with provisional credit for such cash. However, Client's actual deposit shall not be deemed made and deposit credit shall not be given until such cash deposits are actually received by Bank, and are counted and verified. Client agrees that Client's actual deposit is based solely upon the physical verification and count performed by Bank and that Bank is not bound by any other information reported by Client or by a third party, and Bank may reverse or adjust any provisional credit that may have been given based upon such information.

b. Deposits collected by the armored courier are not deemed to be received by Bank until the deposits have been delivered to a cash vault, and such deposits are not insured by the FDIC during transit.

5. Change Orders. Client acknowledges that each authorized user has authority to place change orders up to the order limits for delivery to Client's location. Bank may place a "hold" on Client's account for the amount of a change order, and Bank will charge Client's account for the change order when Bank delivers the order to Client's

armored courier. Bank reserves the right to reduce change orders to maintain Bank's inventory of coins and currency.

6. Authorization Codes. If required, Bank will provide authorization codes for placing change orders to Client's designated contact or to Client's designated authorized users.

7. Risk of Delivery. Client is solely responsible for engaging the armored courier. The armored carrier acts as Client's agent, not an agent or subcontractor of Bank. Client assumes any and all risks incidental to or arising out of selection of the armored carrier, the delivery of deposit bags to Bank and the delivery of change orders to Client. Notwithstanding the foregoing, Bank may reject any armored courier Bank deems unacceptable. Bank has no responsibility or liability for a deposit bag until Bank accepts possession of the deposit bag from Client's armored courier (as evidenced by one of Bank's authorized representatives signing the armored courier's manifest acknowledging receipt of a designated number of deposit bags) or for cash orders after Bank delivers them to Client's armored courier.

8. Contaminated and Mutilated Coins or Currency.

   a. Bank is not obligated to accept currency or coin that is contaminated. Contaminated currency must be delivered to Bank in a separate sealed, tamper-evident disposable deposit bag, clearly labeled as "Contaminated Currency." Client must provide documentation stating the type and extent of the contamination, a breakdown by denomination of the currency and a deposit slip for the declared value. The deposit bag and 2 copies of the required documentation must be placed in a second sealed, tamper-evident, disposable deposit bag with stated value recorded on the bag. If Bank accepts the contaminated currency, Bank will forward the deposit of contaminated currency to the Federal Reserve Bank for processing. Once the Federal Reserve Bank has provided confirmation of value, Bank will credit Client's account for the value assigned. Client should not deliver any contaminated coin to Bank, but should follow instructions in the Cash Vault reference materials or contact Bank for further instructions on handling contaminated coins.

   b. Bank is not obligated to accept mutilated coin or currency. Mutilated coins or currency must be delivered to Bank in a separate sealed, tamper-evident disposable deposit bag, clearly labeled as "mutilated coins" or "mutilated currency" as appropriate in accordance with the Federal Reserve's guidelines. Client must provide documentation stating the estimated value of the mutilated coins or currency, a breakdown by denomination of the coins or currency, an explanation of how the coins or currency became mutilated, and a deposit slip for the estimated value of the deposit. The deposit bag and 2 copies of the required documentation must be placed in a second sealed, tamper-evident, disposable deposit bag with stated value recorded on the bag. If Bank accepts the mutilated coin or currency, Bank will forward the deposit of mutilated coins to the U.S. Mint and the deposit of mutilated currency to the U.S. Department of the Treasury. Once the U.S. Mint or the U.S. Department of the Treasury has provided confirmation of the value of the mutilated coins or currency, Bank will credit Client's account for the value assigned.

   c. If there is any discrepancy between the value of the contaminated currency or mutilated coins or currency assigned by Client and the amount counted by Bank or by the Federal Reserve Bank, U.S. Department of the Treasury or the U.S. Mint, Bank's count or the count of the Federal Reserve Bank, U.S. Mint or the U.S. Department of the Treasury will be final. Bank will charge Client for any additional fees charged by the Federal Reserve Bank for processing any contaminated currency, by the U.S. Mint for processing any mutilated coins or by the U.S. Department of the Treasury for processing any mutilated currency.

   d. Bank may refuse to accept any contaminated or mutilated coins or currency unless Bank has provided Client with prior approval for the delivery of such coins or currency. If any contaminated currency or mutilated coins or currency is included in among deposit bags or comingled in any deposit bag and not contained in a separate marked deposit bag, Bank may refuse to process all or part of the deposit bag containing such currency, may return the deposit bag or the contaminated currency or mutilated coins or currency contained in the deposit bag or may refuse to give credit for the contaminated currency or mutilated coins or currency, and Bank will charge Client for the amount of any currency or coins that were unable to be processed for which Client was given provisional credit. Bank has no liability for the amount of any contaminated currency

or mutilated coins or currency included in any deposit bag and not contained in a separate marked deposit bag as required above.

Check Image Services

1. Description of Check Image Services. Check Image Services provides the ability to receive paid item and deposit ticket images via CD-ROM or Check Image Transmission for long term archival and storage. The Check Image Transmission option includes delivery of imaged items through direct transmission. The CD-ROM option includes delivery of imaged items (and in some cases when made available by Bank, account statements and Account Reconciliation Plan (ARP) reports) on a CD-ROM. Client must have required equipment and must download and install required software materials in order to access the CD-ROM. Details regarding the functionality and requirements that Client must follow when using the Check Image Services are provided in the Check Image Services reference materials.
2. Selection of Check Image Services. Client may select the Check Image Transmission and/or CD-ROM delivery method for imaged items or other available reports or statements designated by Client for the accounts included in the service. Client must specify a lead account for all accounts capturing the same types of images using the same delivery method.
3. Imaged Items. Client agrees that Bank will have no liability for any missing image or if any image Bank captures is not legible. In the event of any missing or illegible images, Bank will use reasonable efforts to provide a replacement image.

Controlled Disbursements Service

1. Description of Controlled Disbursements Service. The Controlled Disbursement Account ("CDA") service allows Client to manage daily cash requirements by allowing Client to defer funding of check disbursements until the day they are presented for payment.
2. Operation of the CDA Service.
    a. When Client requests the CDA service, Bank will provide Client with a set of specifications, including routing number and magnetic ink encoding requirements, that checks issued against a disbursement account must meet in order for the CDA service to operate correctly. Using checks that do not meet these specifications can result in daily out-of-balance situations in a disbursement account. Client must give Bank voided sample checks for each disbursement account so that Bank may test those checks for compliance with the specifications. Client may not issue checks against a disbursement account until Client has received a notice from Bank that Client's sample checks are acceptable.
    b. On each banking day, Bank will make information available to Client, through one of Bank's online services, regarding the total dollar amount of all checks that have been presented for payment against each disbursement account that day by the daily reporting deadlines disclosed to Client.
    c. Client understands that Bank provides presentment information to Client solely to assist Client in funding Client's disbursement accounts. The CDA service does not relieve Client of the obligation to fund Client's disbursement accounts appropriately. As a result, Client agrees to have sufficient funds on deposit in each disbursement account to pay all checks issued against that account, whether or not Bank has notified Client of the presentment of those checks. If the presentment information is not available by the daily reporting deadline, Client should consider using an estimate for funding the disbursement account based on historical information and/or Client's information on its issued checks. The disbursement account must be funded by the funding deadline(s) disclosed to Client. In the event a disbursement account is not adequately funded on the date of presentment, Bank may return items for which there are not sufficient funds.
    d. If any ACH or other electronic debits are presented against a disbursement account, those debits may not be included in the information Bank provides Client regarding daily presentments. In that event, Client must adjust Client's funding of the disbursement account to cover those ACH or other electronic debits.
    e. Client agrees and understands that the purpose of the CDA service is to allow Client to manage daily cash requirements by allowing Client to defer funding of check disbursements until the day they are presented for

payment. The service should not be used to delay payment to or collection of funds by any payees or the presenter of any check.

Controlled Payment Reconciliation Service

1. Description of Controlled Payment Reconciliation Service. The Controlled Payment Reconciliation ("CPR") service allows Client to provide Bank instructions regarding payment or return of certain checks Client believes are fraudulent or not validly issued, before the checks post to Client's account. CPR Payee Positive Pay is a version of the CPR service that includes payee name matching, as described herein. Client may select either CPR or CPR Payee Positive Pay. Each account enrolled in the respective service option is referred to herein as an "enrolled account". Details regarding the functionality, formatting and other technical requirements for the service are provided in the reference materials.
2. Operation of the CPR Service. CPR service helps Client detect unauthorized, counterfeit, altered or otherwise fraudulent checks on Client's enrolled account(s) by comparing issued check (and any voided check) information provided to Bank by Client against the checks presented to Bank against the enrolled account(s). CPR Payee Positive Pay provides stronger protection against fraudulent checks by comparing payee names from Client's issued check file with the payee name on the check, in addition to the standard check number and account fields that are compared with the CPR service. In order for the payee name verification process to function correctly, the payee name must be clearly displayed on Client's printed checks, and the payee name provided in the issued check file should exactly match the name printed on the check.
    a. Presentment Processing. Client must transmit an issue file to Bank on each day on which Client has issued any checks against an enrolled account. Bank must receive that issue file by the deadline set forth in the reference materials and the file must contain the information set forth in the reference materials with respect to each check listed in the file. Bank will compare the information in Client's issue file with the information in Bank's systems with respect to checks (i) that have been presented to Bank through normal check clearing channels for payment against the enrolled account, and (ii) for which Bank has provisionally settled but has not yet posted to the enrolled account. Client authorizes Bank to post, finally pay and charge against the enrolled account, each check that Bank reasonably determines matches the information in Client's issue file. Bank will notify Client of each presented check that is not included in the issue file or that reflects information that does not reasonably match the information in the issue file ("mismatched checks"). Client must instruct Bank to pay or return each mismatched check by the payment decision deadline set forth in the CPR reference materials; such instruction is a "decision".
    b. Mismatched Checks. Client may elect one of two ways for Bank to handle mismatched checks if Client fails to give Bank a pay or return decision by the payment decision deadline. Under the "return default" option, Client authorizes Bank to return unpaid each mismatched check unless Bank receive an instruction from Client to pay it before the payment decision deadline. Even if Client selects a return default option, Bank may post, finally pay and charge against the enrolled account a mismatched check Client hasn't decisioned (A) as otherwise provided below, for mismatched checks presented over the counter in one of Bank's branches and (B) mismatched checks that Bank believe in good faith result solely from encoding errors. Under the "pay default" option, Client authorizes Bank to post, finally pay and charge each mismatched check against the enrolled account unless Bank receives an instruction from Client to return it before the payment decision deadline. Bank will process and pay all exceptions according to Client's default settings.
    c. Client may opt not to provide information in Client's issue file (i) for one or more check attributes that the CPR service is capable of matching or (ii) certain items in situations where Client deems it necessary to avoid mismatch situations, such as instances where Client believes an item has already been legitimately paid. Client acknowledges that not providing information to allow for matching of all available check attributes or not including information for all items increases the risk that a fraudulent check will not be detected as a mismatched check. If Client fails to provide information in Client's issue file regarding all available check attributes that the service is capable of matching, or Client fails to provide an issue record for a check at all for any reason, then Bank will not be liable for paying any check that is fraudulent with respect to the attributes for which Client failed to provide the Bank information, provided Bank otherwise satisfied its duty of care with respect to the other aspects of the CPR service in processing that check.
3. Teller Access Service. As part of the CPR service, Bank will also make Client's issue files available to Bank's branches to assist Bank's tellers in cashing checks ("teller access"). If a check presented for payment against an

enrolled account over the counter in one of Bank's branches (1) is presented before Bank has received and processed an issue file for such check, (2) is a mismatched check, or (3) is otherwise identified by Bank as suspect, then Bank will not pay the check and will refer the presenter back to Client. If a check that matches the issue file information in check number and amount is presented to Bank for cashing over the teller line and the payee name, if provided by Client, does not match the name viewed on the check by the teller, then Bank may in its discretion decide to pay the check, or to not pay the check and refer the presenter back to Client.

4. Transmission of Information. Bank will transmit information regarding mismatched checks to Client by using certain of Bank's online services. Client must transmit Client's issue files and Client's pay or return decisions to Bank by using one of Bank's online services as designated in the reference materials. Client's issue files and pay or return decisions must be in a format acceptable to Bank. In the event the applicable online service is not available, then a mutually agreed-upon alternative delivery method and process will be established to provide the relevant information to Client and for Client to provide Client's issue files and/or Client's pay or return decisions to Bank. Client will designate one or more operational contacts for the CPR service. Bank may, in its sole discretion, contact these operational contacts in the event Bank has questions about Client's issue file, the relevant online service is not available, to set up an alternative delivery method, or for other operational issues with the service. These operational contacts are also authorized to instruct Bank to pay or return any mismatched check in the event that Bank, in its sole discretion, contacts an operational contact regarding such check.

5. Limits on Bank's Liability. Client acknowledges that Bank will rely on information and instructions Client gives Bank in providing the CPR service and that Bank is not required to inspect any attribute of a check (other than those included in the relevant issue file) that is processed through the CPR service. Bank will not have any liability for paying or returning any check in accordance with these CPR terms and conditions, including any check that (i) bears a forged or unauthorized signature, or is counterfeit, or otherwise not validly issued or (ii) is altered or otherwise fraudulent with respect to an attribute that the CPR service is not designed to match. Client will be precluded from asserting any claims against Bank with respect to losses for any fraudulent check that was paid or returned in accordance with these terms and conditions. Client also acknowledges that the CPR service is not a substitute for Bank's stop payment service, or a means to reject checks that were validly issued but for which there exists a dispute with respect to the underlying transaction. Client agrees not to report an item as "void" via this service if Client has released the item for payment.

Daily Liquidity Account and Corporate Premium Money Market Account

1. Description of Daily Liquidity Account ("DLA") and Corporate Premium Money Market Account ("CPMMA") Service. These terms describe the treasury management services associated with the DLA and CPMMA, which are account types intended to be used to hold balances for longer periods of time, with limited transactional capabilities. These terms apply only to new DLA or CPMMA account types opened with Truist Bank. If Client previously opened a DLA or CPMMA with SunTrust Bank, the terms of the existing agreement(s) (as amended) for the accounts that Client executed with SunTrust Bank continue to apply, as certain services implemented on such accounts differ from services implemented for Truist DLA or CPMMA. DLA is an interest-bearing demand deposit account as defined under Federal Reserve Regulation D, and there is no limit on the number of withdrawals or transfers an account holder may make CPMMA is an interest-bearing money market deposit account as defined under Federal Reserve Regulation D; Bank reserves the right at any time to require at least seven days' written notice of an intended withdrawal from the CPMMA, and account holders are limited to six withdrawals or transfers per calendar month or statement cycle. The DLA or CPMMA is opened with Bank using Bank's standard account opening documentation; then, the treasury management services indicated below will be implemented on the accounts. The addition of any other treasury services on DLA or CPMMA, or any modification of the services listed below for DLA or CPMMA, are subject to approval by Bank and may not be permitted, in Bank's sole discretion.

2. Services Implemented for DLA and CPMMA. The following services will be implemented for a Truist DLA or CPMMA, according to the terms and conditions herein ACH Blanket Block, Check Block, and Digital Treasury. Client will have the option to enroll in Wire Service within Digital Treasury, as described in these terms and conditions. Any additional services used with respect to the DLA or CPMMA will be subject to applicable service terms and conditions.

3. ACH Blanket Block. ACH Blanket Block will be implemented for each DLA or CPMMA. This service blocks the posting of incoming automated clearing house, or "ACH," debit and/or credit entries against the account. Client acknowledges that any ACH debits attempted against the account or any ACH credits sent to the account will be

returned automatically and will not be processed, so Client agrees to use alternate methods to transfer funds into or out of the account.

4. Check Block. Check Block will be implemented for each DLA or CPMMA. This service blocks any checks presented against the account. Client acknowledges that any checks presented against the account will be returned and will not be paid, so Client agrees to use alternate methods to transfer funds out of the account.

5. Digital Treasury. Digital Treasury will be implemented for each DLA or CPMMA. Digital Treasury terms and conditions are below; however, certain functions within Digital Treasury will not be available for DLA or CPMMA, including, but not limited to, ACH Origination and Real-Time Payment initiation.

   a. Description of Digital Treasury Service. Digital Treasury service is an internet-based information reporting and transaction initiation system providing real-time access and functionality to Client deposit accounts, and certain functionality or information related to loans or commercial card accounts ("Digital Treasury"). Digital Treasury provides Client a single access point to access account information, place stop payments, initiate certain types of payments, transfer funds between accounts, provide decision instructions for certain services, and receive notifications for Client's accounts or services. The types of payments available to be initiated (e.g. Wire, ACH Origination, and Real-Time Payments) and services available for decision instructions (e.g. Positive Pay and Reverse Positive Pay), and other services and account functions available within Digital Treasury are subject to terms and conditions specific to those services and functions and may include additional fees.

   b. Introduction. Certain services that are available through Digital Treasury require separate enrollment, and Client may not use such services until enrollment is completed. Client agrees that any use of any service through Digital Treasury is subject to the applicable fees and terms and conditions for that specific service as well as these Digital Treasury terms and conditions.

      Certain access to Digital Treasury may require Client to download and agree to license agreements related to, and use certain software, including but not limited to Rapport (a secure browsing software provided by Trusteer Inc., an IBM company), as designated by Bank. Client's failure to use such software may limit Client's ability to access Digital Treasury.

   c. Security Procedures. The security procedures for Digital Treasury are described below. Client agrees that use of the service constitutes acceptance of the below security procedures.

      i. Access Credentials. Access credentials, which may include User ID, initial Password and Security Token, will be provided to the Primary Administrator established during the Digital Treasury enrollment for each designated user. Upon initial log in to Digital Treasury, each user will be required to change their initial Password to a new personal password pursuant to the instructions provided. Valid access credentials are required to log in to the service and perform transactions within the service.

      ii. Dual Approval. Any ACH, wire, or RTP transaction initiated through the service requires dual approval, which means that one authorized user with sufficient entitlements must initiate the transaction and a different authorized user with sufficient entitlements must approve the transaction in order for the transaction to be released and processed. At Client's option, Client may require additional approvals (two or more users) for such transactions.

      iii. Security Token. A code obtained from a token device is required for log in to the service. Transactions initiated within the service (including but not limited to Wire, ACH Origination, Real-Time Payments, account transfers, and loan payments or advances) require the approver to enter a code obtained from a token device in order for the transaction to be released and processed.

   d. Administrators and Operators. Client must designate one individual as Primary Administrator at enrollment. The Primary Administrator may create additional users of the service and users with administrative entitlements, who may also be referred to as Company Operators and Administrators, respectively. Once entitlements are given to Administrators and Company Operators, each will have authority to perform all actions and transactions available through Digital Treasury as granted by the entitlements. Each Company Operator and Administrator may perform any entitled actions or transactions on Client's accounts regardless of whether they are otherwise a designated signer on any such accounts. Should Client request Bank to revoke or change a Primary Administrator, Client must notify Bank of such revocation or change as soon as possible and Bank may require any such revocation or change be in writing and in accordance with Bank procedures.

If Client elects the dual administration feature, which is an optional security feature of Digital Treasury, a second user with sufficient entitlements must approve requests to create, modify, or remove a user's entitlements or system access. In order to elect the dual administration feature, Client must designate a second Digital Treasury administrator, in addition to the Primary Administrator, at the time of enrollment. **Bank strongly recommends that Client use the dual administration feature.** If Client requests more than one setup of the service, Client must designate a Primary Administrator (and second administrator, if dual administration is elected) for each setup. Each setup is identified by a unique company identifier, or "Company ID". The administrator(s) for each setup will have the ability to manage user entitlements within that setup only.

e. Account Information. Client can select from a variety of reporting formats that may include different combinations of account balances and activity information.

f. Account Transfers. Client may initiate current day and future dated transfers between its accounts at Bank, as may be subject to any applicable restrictions on the number of transfers governing such account(s). Bank will execute any transfer request on the value date for the transfer indicated within the service. By initiating any transfer, Client assumes full responsibility for verifying the availability of collected funds for the requested transfer date.

Bank is under no obligation to honor, either partially or entirely, any transfer request that exceeds the available funds in Client's account. If Bank in its sole discretion creates an overdraft to complete a transfer, Client agrees to repay Bank upon demand, together with any applicable interest or fees and if necessary, the costs of collection.

g. Stop Payments. Client may initiate stop payment requests or cancellations of a stop payment order in the form and manner specified in Digital Treasury. Client must provide the account number, check serial number, exact check amount, and stop payment reason in order for the stop payment instructions to be effective. Stop payments are subject to applicable terms within the Commercial Bank Services Agreement.

h. Images of Paid Checks, Deposits & Deposited Items, and Returned Deposited Items. Through Digital Treasury, Client may view digital images of cancelled (paid) checks, deposit slips and accompanying items, and returned deposited checks. Online images may be viewed only for such periods of time as Bank may establish and older images may be sent to Client via the method specified by Bank.

As is common industry practice with various check "truncation" or "safekeeping" services, Bank destroys the original checks but retains the images for at least the number of years required by law. If an image of a check is missing or is illegible, Bank will attempt to provide Client with a legible copy upon Client's request, if Client gives Bank adequate information to identify the specific item. However, Bank will have no liability to Client if Bank is unable to provide a copy within Client's requested timeframe, or at all, due to any reason other than Bank's gross negligence, willful misconduct or criminal conduct. Bank reserves the right to charge a fee for such requests in some circumstances, such as when the image is missing or illegible due to circumstances beyond Bank's control.

i. Alerts. With this service, Client may choose to receive alerts concerning selected types of events relating to Client's accounts or services. Client may then log on to Digital Treasury to obtain more details. Bank accepts no responsibility or liability if Client does not receive any alerts in a timely manner due to email outages or any other reason.

j. eStatements. With this sentence, Client may choose to receive images of Client's statements including bank statements, and other reports or information. Bank accepts no responsibility or liability if these statements or reports are not available in a timely manner due to outages or any other reason. When a deposit account is included within the service, paper statement delivery will be suppressed for such account, and the statements for such account will only be available within Digital Treasury to entitled users. **Bank strongly recommends that Client establish appropriate internal controls to monitor and review statements for deposit accounts, especially in the event that statements are only available through Digital Treasury.** If Client requires paper statement delivery for deposit accounts included within the service, Client must request paper statements from Bank and additional fees may apply.

k. Loan, Line of Credit, and Card Accounts. If any loan, line of credit, or credit, commercial, or purchasing card account types are included in Client's setup of the service, the term "account" when used in reference to the service includes these account types. By requesting the account to be included in the service, Client authorizes Bank to provide or display information relating to such loan, line of credit or card accounts within the service or to entitled users, and to provide any available functionality or service with respect to those

accounts as may be requested or enabled by an entitled user, including, but not limited to, the ability to view account and transaction information, to make payments on the accounts, or to perform drawdowns, advances, or other transactions on the accounts. Client represents and warrants to Bank that inclusion of such accounts in Digital Treasury is in accordance with and does not violate any terms, resolutions, or agreements relating to the accounts. Client shall indemnify and hold Bank harmless against any claim, loss, damage, cost or expense including litigation expenses and reasonable attorney's fees resulting from a breach of the representation and warranty in this Section k or resulting in any way from the inclusion of the account in Digital Treasury.

l. Loan Payments & Advances. Client may have the opportunity to request access to loan accounts through Digital Treasury to perform the following functions:

   i. apply a payment to their loan obligation via one of the accounts available from the Digital Treasury application; and/or

   ii. loan advance service for loan eligible accounts to a deposit account established and entitled in the Digital Treasury application. Loan advances will be subject to applicable limits or availability per terms of the loan.

m. Commercial Card Accounts. If any commercial card, credit card, or purchasing card accounts are added to Digital Treasury, reporting and transaction information for such accounts will be available within Digital Treasury.

6. Wire Service. If Client enrolls a DLA or CPMMA for wire service within Digital Treasury, the Truist Wire Agreement, together with these terms and conditions and the Digital Treasury terms and conditions, will apply to wires initiated through Digital Treasury. The Truist Wire Agreement is below.

Truist Wire Agreement

This Truist Wire Agreement is made by and between Truist Bank ("Bank") and Client (as defined below). This Agreement shall govern all funds transfers initiated via the following methods or services, according to the terms herein: Corporate Call, Retail PIN, Drawdown Wire, Standing Order Wire, and wires initiated through one of Bank's treasury management services governed by the Truist Treasury Management Agreement. Each of these methods or services is referred to herein as a "Wire Service", and any documentation relating to a Wire Service (including but not limited to the Truist Treasury Management Agreement, another service agreement, implementation form, or other document providing service and account elections and details relating to wire transfers to be initiated via the Wire Service) is referred to herein as a "Wire Document". Client agrees to the terms of this Agreement by executing a Wire Document and/or requesting a Wire Service that is subject to the terms of this Agreement. Any wire initiated through a Wire Service shall be subject to the terms of this Agreement as well as the terms of the applicable Wire Document. The terms of Bank's Bank Services Agreement ("BSA") or Commercial Bank Services agreement ("CBSA"), as applicable to the Account used for wire initiation, are incorporated into this Agreement by reference, and shall apply to each wire initiated through a Wire Service and any claims or disputes that arise out of this Agreement, including but not limited to BSA or CBSA provisions regarding the mutual arbitration agreement, jury trial and litigation class action waiver, duty of care, costs, expenses, fees, applicable law, and jurisdiction. In the event of a conflict between the CBSA or BSA and this Agreement, the terms of this Agreement shall control.

1. Definitions. The following are defined terms:

   a. "Account" means the account(s) designated by Client on a Wire Document(s) to be used as the source of payment for Payment Orders.

   b. "Authorized Sender" means a person designated by Client on a Wire Document, and any user entitled by an administrator or otherwise within the Wire Service, who is authorized to initiate, submit and/or verify Payment Orders and Instructions to Bank. The term Authorized Sender when used herein includes "Authorized Representatives" designated on a Corporate Call or Retail PIN Wire Service Details and Authorized Representatives agreement.

   c. "Confirmation" means any notice (oral, written, electronic, or otherwise) informing Client of the date and amount of each Transfer to or from an Account.

   d. "Client" means the individual or entity that has executed a Wire Document and will use one or more or Wire Services for wire initiation that is governed by this Agreement.

e. “Instructions” means the Transfer related directions given by an Authorized Sender to Bank, including amendments or cancellations of Payment Orders. Instructions will be provided pursuant to the terms of the applicable Wire Document.

f. “Payment Order” means a request (oral, written, or electronic) from an Authorized Sender directing Bank to initiate a Transfer from an Account.

g. “International Payment Order” means a Payment Order in which the beneficiary’s bank is located outside of the United States.

h. “Repetitive Transfers” mean Transfers initiated by Payment Orders in which the debit and beneficiary information, designated by Client on its Corporate Call Repetitive agreement or Retail PIN Repetitive agreement, remains constant, but the date and dollar amount vary; Transfers are initiated using a Repetitive Code.

i. “Standing Order Transfers” mean Transfers made as ordered by Client on a Standing Order Wire agreement, in which the debit and beneficiary information remain constant, and the frequency and amount of the Transfer are according to the instructions on the Standing Order Wire agreement.

j. “Drawdown Wires” mean Transfers made as ordered and agreed to by Client on a Drawdown Wire agreement, authorizing another institution to transfer funds from Client’s account at the Bank.

k. “Statement” means Client’s periodic Account statement.

l. “Transfer” means a transfer of funds by Fedwire, SWIFT, CHIPS, telex, computer terminal, electronic, or other means, but excluding transfers made through the ACH network or Real-Time Payments network.

2. Authorized Sender. Authorized Senders may provide Payment Orders and Instructions to Bank.

3. Client Signature. A Wire Document may be signed manually or electronically according to Bank’s instructions. A duplicate or copy of any manually or electronically signed Wire Document delivered to Bank through facsimile or email attachment shall be as effective and enforceable as an original manually signed agreement. A digital, electronic or photostatic image of any such signed Wire Document maintained in Bank’s record retention system shall be as effective and enforceable as an original manually signed agreement. Client consents to the use of electronic records and signatures with respect to Client’s use of any Wire Service.

4. Form of Instructions. Bank may act upon Payment Orders or Instructions. Any Payment Order or Instruction which does not comply with Bank's procedures or which exceeds the available balance of the funds on deposit in an Account may be canceled from Bank's wire system without notice to Client or liability to Bank.

   a. Special Instructions. Client may elect to authorize Repetitive Transfers for Retail PIN Wire Service by executing a Retail PIN Repetitive agreement, or for Corporate Call Wire Service by executing a Corporate Call Repetitive agreement. Bank's assignment of a Repetitive Code for Repetitive Transfers is not a security procedure as such term is used herein. Client may also elect to authorize a Standing Order Transfer by executing a Standing Order Wire agreement. Client may make arrangement with another financial institution to debit an Account by means of a drawdown instruction by executing a Drawdown Wire agreement. Bank shall be under no obligation to comply with any drawdown request or make any transfer which would exceed the balance of available fund on the deposit in the Account. Client agrees that any drawdown request must be received by Bank prior to Bank’s established cut-off time; drawdown requests received after that time may be refused.

   b. Electronic Instructions. If Bank accepts Client's election to initiate Payment Orders and Instructions from Client's electronic access system, Client shall be responsible for the security and confidentiality of Client's system and for the accuracy and completeness of any data received by Bank.

5. Processing Transfers. Bank may select any means for the transmission of funds which it considers suitable, including but not limited to Bank’s own internal systems. Bank may use any of its domestic or foreign correspondent banks to facilitate or effect payment. Bank may also substitute or insert a routing number of an intermediary or beneficiary bank provided by Client in a Payment Order, if such substitution is necessary for the means of transmission used, provided that the substituted or inserted routing number identifies the same intermediary or beneficiary bank included in the Payment Order.

   Bank may, in its sole discretion, verify or authenticate any Payment Order or Instruction by contacting Client by telephone or by any other means deemed reasonable by Bank, but Bank is under no obligation to do so.

If Bank is unable to verify or authenticate a Payment Order or Instruction, it is within the Bank's sole discretion to either effect or refuse such Payment Order or Instruction.

Bank may cancel the Transfer without notice or liability to Client if (i) the request does not comply with Bank's procedures, (ii) Bank reasonably believes the transfer is prohibited by applicable law, (iii) the Transfer exceeds the available balance of funds in the Account, (iv) Bank attempts to verify a Payment Order and is unable to do so, or (v) as otherwise provided in this Agreement.

6. Funding Obligations. Client is responsible for ensuring that there are sufficient collected and available funds in the Account to satisfy all Payment Orders and other debits which may be presented on a given day. Bank may handle Client's Payment Orders with other debits for the day in any order chosen by Bank, in Bank's sole discretion. If funds are insufficient to cover all debits, this may result in rejection or cancellation of the Payment Order, delay in execution until sufficient funds are available, or the creation or increase of an overdraft in the Account.

7. Confirmations and Duty to Report Errors. The date and amount of each Transfer are described on the applicable Statement. Bank may also deliver Confirmations to Client in writing, electronically, or by a report produced by one of Bank's information reporting services, and/or as otherwise described in the applicable Wire Document. Bank will not deliver next day notice of receipt of incoming Transfers. Client shall examine upon receipt, but in no event later than 30 days after receipt, any Statement or Confirmation (whichever first occurs) and notify Bank of errors or discrepancies in connection with a Transfer shown on the Statement or Confirmation. Failure to notify Bank of any error within such 30 day time period shall relieve Bank of all liability for the any unauthorized or erroneous Transfers reflected in such Statement or Confirmation.

8. Corporate Call and Retail PIN Wire Services. Corporate Call and Retail PIN Wire Services are funds transfer services that are available through the use of a phone to an interactive voice response (IVR) solution. Corporate Call is offered to business Accounts, and Retail PIN is offered to consumer Accounts. The terms of the applicable Wire Document(s) for Corporate Call or Retail PIN govern the use of the service in addition to the terms of this Agreement.

9. Amendment or Cancellation of Payment Orders. Any Instruction canceling or amending a Payment Order is not effective unless Bank has received such Instruction at a time and in a manner affording Bank a reasonable opportunity to act before processing the Transfer. Client may not be able to cancel or amend a Transfer after it is processed by Bank. However, Bank may, at its discretion, use reasonable efforts to act on an Instruction for cancellation or amendment. If Client requests that Bank attempt to recover a Transfer, Client may be required to deposit funds with Bank or provide other payment assurances that are satisfactory to Bank to cover the cost, expense, charges, and/or attorneys' fees incurred by Bank in its recovery attempt, and Client agrees to indemnify and hold Bank harmless from any and all liabilities, costs and expenses Bank may incur in attempting to recall or amend a processed Transfer. Bank's attempt to recover funds shall not be an acceptance of responsibility for the completed Transfer. Bank does not guarantee the recovery of all or any part of a Transfer, and any expenses of Bank or its correspondent bank relating to the recall or return of funds shall be deducted from the amount of the returned funds. In the event Bank receives the return of funds in a currency other than U.S. Dollars, the funds will be converted by Bank into U.S. Dollars at Bank's current buying rate for that currency on the date of return. Bank shall not be liable for any resulting exchange losses.

10. Deadlines. Bank maintains deadlines for the receipt of Payment Orders and Instructions, including cancellations and amendments, and such deadlines are subject to change at the sole discretion of Bank. Payment Orders and Instructions received after the deadline shall be treated as received on the next banking day. Bank may, in its sole discretion, execute Payment Orders received after the deadline on that same banking day only as an accommodation to Client.

11. Security Procedures. The security procedures Bank offers to Client are designed to control access to the Wire Services and verify the authenticity of instructions provided to Bank. The security procedures are not designed to detect errors in the content of Payment Orders or Instructions transmitted to Bank, including but not limited to intended account numbers of Client, account numbers not belonging to the name of recipient, and erroneous or fraudulent instructions provided to Client by another party. The security procedures for Wire Services are described below. Client agrees that use of the applicable Wire Service constitutes acceptance of the below security procedures, and agrees that the security procedures are commercially reasonable for Client's use of the Wire Service, including the size, type and frequency of any possible Transfers that may be initiated from an Account that is associated with the Wire Service now or in the future. Client agrees to be bound by, and Bank is authorized to rely and act upon, all Payment Orders accepted by Bank in good faith and in compliance with the applicable security procedures, whether or not Client (or a user, administrator, or

Authorized Sender of Client) actually gave Bank those instructions. Client agrees to comply with additional security procedures that may be implemented by Bank for a particular Wire Service from time to time.

Client is responsible for controlling access to and maintaining the confidentiality of the details related to the security procedures and Client must immediately report to Bank as soon as Client becomes aware of any (i) suspected breach of that confidentiality, (ii) compromise of any security procedure, or (iii) need to revoke any access credentials or authorization codes. Client's failure to control access to and maintain confidentiality of the security procedures, or failure to notify Bank as required herein, may result in improper use of the security procedures to initiate or access a Wire Service or initiate Transfers. Subject to applicable law, Client shall be responsible for any transaction or losses relating to access to a Wire Service resulting from such improper use of security procedures, provided Bank has complied with its obligations herein, and Client agrees that Bank shall have no liability for any loss, claim or damage Client sustains as a result of the improper use of the security procedures.

a. Security Procedures for Transfers initiated via a Treasury Management Service. For Transfers initiated via a treasury management service governed by the Truist Treasury Management Agreement, the security procedures applicable to logging on to/accessing the service (such as valid access credentials and/or authorization codes or tokens), as well as security procedures applicable to wire transactions within the service (such as dual approval and/or authorization codes or tokens required to release a transaction for processing) apply to Transfers initiated via that treasury management service.

b. Security Procedures Applicable to Corporate Call and Retail PIN. Transfers initiated via Corporate Call or Retail PIN Client require the following verification elements: items (i), (ii), (iii) and if required by Bank in Bank's discretion or by Client per elections made within the applicable Wire Document, item (iv).

   i. Profile ID – 6-digit numerical ID emailed to Client's Authorized Representatives by Bank,

   ii. Personal Identification Number (PIN) - assigned by Bank's system to Client (temporary PIN will be sent via U.S. Mail to each Authorized Representative; the PIN must be activated and changed to a confidential PIN within 90 days after receipt),

   iii. Dynamic Passcode via Email or Mobile Phone – one-time verification passcodes, and

   iv. Wire Verification via Telephone Call Back – by Client to Bank may be required.

   If the Dynamic Passcode delivery method selected is mobile phone, applicable to US dialing only, then one SMS message containing a dynamic passcode is sent per Payment Order. Client may call 800-774-8179 for additional information or help with the mobile phone Dynamic Passcode delivery option, including to obtain instructions to stop enrollment in SMS messages.

12. Recording. Client consents to Bank recording telephone calls, including, without limitation, Payment Orders and Instructions. Client assumes the responsibility for obtaining the consent of the Authorized Senders for these recordings. The recordings made shall be conclusive confirmation of Payment Orders and Instructions. Client acknowledges that not all calls will be recorded.

13. International Transfers. If the amount transferred is of a currency other than that of the country to which it is transferred, it shall be payable to the payee (beneficiary) in the currency of the specified country at the then buying rate, unless the payee arranges otherwise with the paying bank and/or deposit bank and pays all its charges in connection therewith.

    a. For International Transfers (Remittance Transfers) From a Consumer Account. Bank may in its discretion decline to comply with Client's request to use a particular intermediary or pay through bank and may substitute a correspondent bank of Bank's choosing. Client may cancel a transfer for a full refund within 30 minutes of payment for the Transfer, provided that the Instruction to cancel enables Bank to identify the sender's name and address or telephone number and the particular transfer to be canceled, and the transferred funds have not been picked up by the recipient or deposited into an account of the recipient. Other than this thirty-minute right of cancellation, Client may not be able to recall or amend a Transfer after it is processed by Bank and other applicable provisions of this Section shall apply. If Client believes there is an error with respect to the Transfer, Client must notify Bank (by calling 844-4TRUIST / 844-487-8478) within 180 days of the Availability Date set forth on the receipt provided to Client. Failure to notify Bank within the 180-day time period shall relieve Bank of all liability for the Transfer. Client can also contact Bank for a written explanation of Client's rights.

b. For International Transfers From a Non-Consumer Account. Bank or any correspondent or intermediary bank reserves the right to convert the amount of any Transfer to a local (generally beneficiary's country) currency prior to executing the Transfer. In the event Client designates an Intermediary Bank in Client's Payment Order, Bank will first send the Transfer to Bank's correspondent bank, and such correspondent bank will then route the Transfer to Client's designated Intermediary Bank. Bank may not offer foreign currency Payment Orders in a particular foreign currency, at Bank's discretion.

c. Foreign Currency Conversion Opt Out. If an Opt Out election is not made for an Account per an applicable Wire Document, Bank reserves the right, at its option to convert or instruct Bank's correspondent (a bank with which Truist has a relationship for the purpose of sending international wires) to convert any U.S. Dollar-denominated international Payment Order from the Account to the currency of the country in which the beneficiary's bank is located. If the Opt Out election is made for an Account, international Transfers initiated from the Account will be sent by Bank in the currency specified in Client's Payment Order (but note that funds may be converted to another currency by a subsequent intermediary bank or the beneficiary bank). If Client does not specify a currency for international Payment Orders, the Transfer will be processed in U.S. Dollars. If an Opt Out election is made for an Account, this election will apply to all Transfers from such Account, by any initiation method or channel. If Client desires to ensure that Bank executes an International Payment Order in a currency other than U.S. Dollars, then Client should denominate that International Payment Order in the desired currency.

d. Payment Protection - Bene-deduct (debit) Exemption. It is customary for correspondent banks (banks with which Truist has a relationship for the purpose of sending international Transfers) and/or additional intermediary banks which facilitate the delivery of Transfers to the beneficiary's bank to assess and deduct charges from the principal amount of the Transfer. If Client selects the Exemption for an Account per an applicable Wire Document, Transfers from the Account will be exempt from the deduction of charges by Bank's. However, note that an intermediary bank or the beneficiary's bank may still take a deduction from the payment to the beneficiary, so the Exemption selected for an Account may not prevent all deductions from the payment to the beneficiary. If the Exemption is selected for an Account, it will apply to all Transfers from such Account, by any initiation method or channel.

e. Conversion Cap. For foreign currency international Payment Orders that exceed an amount (the "Conversion Cap") set by Bank, Client must obtain a Contract ID before the Transfer can be processed. Contract IDs are offered at Bank's discretion and may not be available for all foreign currency Payment Orders. Client can obtain a Contract ID or request the current Conversion Cap amount by contacting Bank at the following numbers:

   i. For Retail PIN Wire Service: 844-4TRUIST / 844-487-8478

   ii. For all other Wire Services: 800-774-8179

14. Name and Account Number Inconsistency; Erroneous Instructions. Client acknowledges and agrees that Client is solely responsible for the accuracy of Payment Orders provided to Bank. If a Payment Order inconsistently describes the beneficiary, beneficiary's bank, or intermediary bank by name and number, payment might be made by the intermediary or beneficiary's bank on the basis of the number even if the number identifies a person or bank other than the named beneficiary or bank. Client shall be responsible for any loss associated with such inconsistency and agrees that its obligation to pay the amount of the Transfer to Bank is not excused in such circumstances.

15. Liability.

a. Duty of Reasonable Care. Bank shall exercise good faith and reasonable care in performing the Wire Services. Client shall exercise good faith and reasonable care in observing and maintaining security procedures, in communicating Payment Orders and Instructions to Bank and in reviewing Statements and Confirmations for errors. Client is responsible for ensuring the accuracy of all information contained in a Payment Order, and Bank has no duty whatsoever to verify the accuracy of any Payment Order, nor will Bank be liable for losses or damages arising out of Payment Orders containing inaccurate or incorrect information.

b. Limitation of Liability**.** Bank's liability for a Transfer shall be limited to errors or delays in the Transfer per applicable law and shall not be liable in any case for any special, indirect, exemplary, or consequential damages (including lost profits) of any kind. Bank is not responsible for performance failure as a result of an interruption in transfer facilities, labor disputes, power failures, equipment malfunctions, suspension of payment by another bank, errors by another bank, refusal or delay by another bank to accept the

Transfer, acts of war or terrorism, regulatory or emergency conditions, fire, earthquake, or other circumstances outside of Bank's control.

Client will hold Bank harmless (a) if Bank acts in accordance with Payment Orders and Instructions, including, but not limited to, amendments or cancellations; (b) if Bank attempts to recover funds upon Client's request; (c) for any loss resulting from the unauthorized access to or use of applicable security procedures; or (d) for any matters referenced in this Agreement for which Client has responsibility.

Except as otherwise required by applicable law, any damages or other compensation due Client resulting from Bank's negligence shall be limited to interest on the funds at issue at the federal funds rate paid by Bank at the close of business on each day the error or delay remains uncorrected; provided, however, if Bank is unable to recover the funds from the transferee who has no claim to all or any portion of the funds erroneously transferred as a result of the Bank's negligence, Bank shall be liable for Client's actual loss, not to exceed the amount of funds which Bank is unable to recover, plus interest at the rate described above.

16. Fees. Client shall pay all fees and charges which Bank may, from time to time, impose for the performance of Wire Services subject to this Agreement. In addition, Client shall reimburse Bank for all out-of-pocket expenses incurred by Bank in effecting Payment Orders and Instructions, including cancellations, amendments and attempted recoveries, and Client shall be responsible for payment of all fees and charges of each correspondent or intermediary bank which facilitates a Transfer or payment. It is customary that such fees and charges are assessed and withheld from the amount of the Transfer or if assessed to Bank, passed on to Client. Client hereby authorizes Bank to instruct any correspondent or intermediary bank to obtain payment of its charges by withholding such charges from the amount of the Transfer.

17. Notices. For Wire Services subject to the Truist Treasury Management Agreement, notices shall be provided pursuant to the notice provisions in that agreement. For Standing Order Wire, Drawdown Wire, Corporate Call, and Retail PIN, notices shall be provided pursuant to the notice provisions in the BSA or CBSA, as applicable.

18. Amendment and Termination. This Agreement may be amended by Bank from time to time by prior written notice to Client. Any use of Wire Services subject to this Agreement Client's receipt of the notice shall constitute acceptance of the terms of the amendment. Either party may terminate this Agreement by giving 30 days prior written notice to the other party. Bank may terminate this Agreement immediately, without prior notice to Client, if (a) the Account(s) has no annual activity or has been closed; or (b) in the good faith opinion of Bank, Client is involved in potentially illegal or unethical business practices or is financially unstable, or the prospect of Client's payment or performance has been impaired.

19. Miscellaneous**.** This Agreement shall be binding upon and inure to the benefit of the parties, their legal representatives, successors, and assigns, by merger or otherwise. If any provision of this Agreement shall be declared invalid or unenforceable, said provision shall be ineffective to the extent it is invalid, without in any way affecting the remaining provisions of this Agreement. In addition to the applicable law provisions of the BSA or CBSA, the rights, duties and liabilities of Bank and Client shall be subject to, and Client agrees to comply with, as applicable, federal laws, Federal Reserve Bank operating circulars, Federal Reserve Board regulations, Consumer Financial Protection Board regulations, regulations and requirements of the Clearing House Interbank Payments System (CHIPS) and/or the Society for World Interbank Financial Telecommunication (SWIFT).

Digital Treasury Service

1. Description of Digital Treasury Service. Digital Treasury service is an internet-based information reporting and transaction initiation system providing real-time access and functionality to Client deposit accounts, and certain functionality or information related to loans or commercial card accounts ("Digital Treasury"). Digital Treasury provides Client a single access point to access account information, place stop payments, initiate certain types of payments, transfer funds between accounts, provide decision instructions for certain services, and receive notifications for Client's accounts or services. The types of payments available to be initiated (e.g. Wire, ACH Origination, and Real-Time Payments) and services available for decision instructions (e.g. Positive Pay and Reverse Positive Pay), and other services and account functions available within Digital Treasury are subject to terms and conditions specific to those services and functions and may include additional fees.

2. Introduction. Certain services that are available through Digital Treasury require separate enrollment, and Client may not use such services until enrollment is completed. Client agrees that any use of any service through Digital Treasury is subject to the applicable fees and terms and conditions for that specific service as well as these Digital Treasury terms and conditions.

   Certain access to Digital Treasury may require Client to download and agree to license agreements related to, and use certain software, including but not limited to Rapport (a secure browsing software provided by Trusteer Inc., an IBM company), as designated by Bank. Client's failure to use such software may limit Client's ability to access Digital Treasury.

3. Security Procedures. The security procedures for Digital Treasury are described below. Client agrees that use of the service constitutes acceptance of the below security procedures.

   a. Access Credentials. Access credentials, which may include User ID, initial Password and Security Token, will be provided to the Primary Administrator established during the Digital Treasury enrollment for each designated user. Upon initial log in to Digital Treasury, each user will be required to change their initial Password to a new personal password pursuant to the instructions provided. Valid access credentials are required to log in to the service and perform transactions within the service.

   b. Dual Approval. Any ACH, wire, or RTP transaction initiated through the service requires dual approval, which means that one authorized user with sufficient entitlements must initiate the transaction and a different authorized user with sufficient entitlements must approve the transaction in order for the transaction to be released and processed. At Client's option, Client may require additional approvals (two or more users) for such transactions.

   c. Security Token. A code obtained from a token device is required for log in to the service. Transactions initiated within the service (including but not limited to wire, ACH, Real-Time Payments, account transfers, and loan payments or advances) require the approver to enter a code obtained from a token device in order for the transaction to be released and processed.

4. Administrators and Operators. Client must designate one individual as Primary Administrator at enrollment. The Primary Administrator may create additional users of the service and users with administrative entitlements, who may also be referred to as Company Operators and Administrators, respectively. Once entitlements are given to Administrators and Company Operators, each will have authority to perform all actions and transactions available through Digital Treasury as granted by the entitlements. Each Company Operator and Administrator may perform any entitled actions or transactions on Client's accounts regardless of whether they are otherwise a designated signer on any such accounts. Should Client request Bank to revoke or change a Primary Administrator, Client must notify Bank of such revocation or change as soon as possible and Bank may require any such revocation or change be in writing and in accordance with Bank procedures.

   If Client elects the dual administration feature, which is an optional security feature of Digital Treasury, a second user with sufficient entitlements must approve requests to create, modify, or remove a user's entitlements or system access. In order to elect the dual administration feature, Client must designate a second Digital Treasury administrator, in addition to the Primary Administrator, at the time of enrollment. **Bank strongly recommends that Client use the dual administration feature.** If Client requests more than one setup of the service, Client must designate a Primary Administrator (and second administrator, if dual administration is elected) for each setup. Each setup is identified by a unique company identifier, or "Company ID". The administrator(s) for each setup will have the ability to manage user entitlements within that setup only.

5. Account Information. Client can select from a variety of reporting formats that may include different combinations of account balances and activity information.

6. Account Transfers. Client may initiate current day and future dated transfers between its accounts at Bank, as may be subject to any applicable restrictions on the number of transfers governing such account(s). Bank will execute any transfer request on the value date for the transfer indicated within the service. By initiating any transfer, Client assumes full responsibility for verifying the availability of collected funds for the requested transfer date.

   Bank is under no obligation to honor, either partially or entirely, any transfer request that exceeds the available funds in Client's account. If Bank in its sole discretion creates an overdraft to complete a transfer, Client agrees to repay Bank upon demand, together with any applicable interest or fees and if necessary, the costs of collection.

7. Stop Payments. Client may initiate stop payment requests or cancellations of a stop payment order in the form and manner specified in Digital Treasury. Client must provide the account number, check serial number, exact

check amount, and stop payment reason in order for the stop payment instructions to be effective. Stop payments are subject to applicable terms within the Commercial Bank Services Agreement.

8. Images of Paid Checks, Deposits & Deposited Items, and Returned Deposited Items. Through Digital Treasury, Client may view digital images of cancelled (paid) checks, deposit slips and accompanying items, and returned deposited checks. Online images may be viewed only for such periods of time as Bank may establish and older images may be sent to Client via the method specified by Bank.

   As is common industry practice with various check "truncation" or "safekeeping" services, Bank destroys the original checks but retains the images for at least the number of years required by law. If an image of a check is missing or is illegible, Bank will attempt to provide Client with a legible copy upon Client's request, if Client gives Bank adequate information to identify the specific item. However, Bank will have no liability to Client if Bank is unable to provide a copy within Client's requested timeframe, or at all, due to any reason other than Bank's gross negligence, willful misconduct or criminal conduct. Bank reserves the right to charge a fee for such requests in some circumstances, such as when the image is missing or illegible due to circumstances beyond Bank's control.

9. Alerts. With this service, Client may choose to receive alerts concerning selected types of events relating to Client's accounts or services. Client may then log on to Digital Treasury to obtain more details. Bank accepts no responsibility or liability if Client does not receive any alerts in a timely manner due to email outages or any other reason.

10. eStatements. With this service, Client may choose to receive images of Client's statements including bank statements, and other reports or information. Bank accepts no responsibility or liability if these statements or reports are not available in a timely manner due to outages or any other reason. When a deposit account is included within the service, paper statement delivery will be suppressed for such account, and the statements for such account will only be available within Digital Treasury to entitled users. **Bank strongly recommends that Client establish appropriate internal controls to monitor and review statements for deposit accounts, especially in the event that statements are only available through Digital Treasury.** If Client requires paper statement delivery for deposit accounts included within the service, Client must request paper statements from Bank and additional fees may apply.

11. Loan, Line of Credit, and Card Accounts. If any loan, line of credit, or credit, commercial, or purchasing card account types are included in Client's setup of the service, the term "account" when used in reference to the service includes these account types. By requesting the account to be included in the service, Client authorizes Bank to provide or display information relating to such loan, line of credit or card accounts within the service or to entitled users, and to provide any available functionality or service with respect to those accounts as may be requested or enabled by an entitled user, including, but not limited to, the ability to view account and transaction information, to make payments on the accounts, or to perform drawdowns, advances, or other transactions on the accounts. Client represents and warrants to Bank that inclusion of such accounts in Digital Treasury is in accordance with and does not violate any terms, resolutions, or agreements relating to the accounts. Client shall indemnify and hold Bank harmless against any claim, loss, damage, cost or expense including litigation expenses and reasonable attorney's fees resulting from a breach of the representation and warranty in this Section 11 or resulting in any way from the inclusion of the account in Digital Treasury.

12. Loan Payments & Advances. Client may have the opportunity to request access to loan accounts through Digital Treasury to perform the following functions:

    a. apply a payment to their loan obligation via one of the accounts available from the Digital Treasury application; and/or

    b. loan advance service for loan eligible accounts to a deposit account established and entitled in the Digital Treasury application. Loan advances will be subject to applicable limits or availability per terms of the loan.

13. Commercial Card Accounts. If any commercial card, credit card, or purchasing card accounts are added to Digital Treasury, reporting and transaction information for such accounts will be available within Digital Treasury.

Electronic Data Interchange Service

1. Description of Electronic Data Interchange Service. Electronic Data Interchange ("EDI") refers to the electronic exchange of payments, payment-related information and other financial data in formats that meet certain standards. The EDI services that Bank offers fall into the following three categories payment initiation, payment

receipts or "electronic receivables delivery", and financial reporting services. Client may select one or more types of EDI service and will designate which accounts are associated with each service. The EDI services are described below:

a. Payment Initiation. Client provides an electronic file to Bank in order to initiate entries through Bank's ACH Origination service and/or create paper checks through Bank's Integrated Payables service.

b. Payment Receipts. Bank sends Client an electronic reporting file via direct transmission containing payment and payment-related data relating to Client's ACH Origination and/or lockbox service(s) to Client in various formats as selected by Client. ACH Origination payment and payment-related data may also be provided in a Human Readable report.

c. Financial Reporting. Client can send and receive electronic files related to Bank's Account Reconciliation Plan, Controlled Payment Reconciliation and Positive Pay services (both issue and paid item files), and ACH Fraud Control service (authorization records). Client may also elect to receive a file of Account Analysis billing data though EDI.

2. Files Bank receives from Client or sends to Client via EDI services must be in a format that Bank has tested and agreed to and must be sent or received by the applicable deadlines for the relevant service to allow Bank to perform the necessary edits and process and/or forward the files for the relevant payment or information purposes. The terms and conditions for each service that is utilized through or in connection with an EDI file apply to Client's use of such service.

Electronic Lockbox Service

1. Description of Electronic Lockbox Service. The Electronic Lockbox service enables Client to receive remittance information regarding payments sent to Client through the online bill payment service of any third-party online payment processor (each, an "online payment processor") who participates in the Electronic Lockbox service. Client's designation of accounts and online payment processors for the service are reflected on a Treasury Request Confirmation. Details regarding the functionality and requirements of the service are provided in the Electronic Lockbox reference materials.

2. Enrolling as a Biller.

   a. Client authorizes Bank to establish a "biller profile" for each designated online payment processor using information Client provides to Bank. If Client's discovers that any information in its biller profile is inaccurate or needs to be revised, Client must notify Bank immediately and take any required steps to modify or correct the information and adjust any funds incorrectly remitted to Client as a result of such incomplete or inaccurate information.

   b. Client represents and warrants to Bank that Client does not owe any outstanding amounts to an online payment processor and that Client is not currently using (and, as long as Bank provides the Electronic Lockbox service to Client, will not use) the services of any other financial institution to enroll in or otherwise obtain access to the online bill payment service for the same online payment processor(s) as those that are reported by Bank.

3. Remittance Files; Settlement; Reconcilement; Posting.

   a. Once Client has been enrolled as a biller and Bank has implemented Electronic Lockbox service for Client for the applicable online payment processor(s), the online payment processor(s) will send Bank remittance information for payments sent to Client through the applicable online bill payment service. Bank will reformat the information and send a "remittance file" of such information to Client. Client may designate whether Bank sends remittance files to Client as a separate transmission, appended to another product's file, or available for download in the Electronic Lockbox web application.

   b. Bank will settle all payments sent to Client in each remittance file via ACH credit to Client's designated settlement account. ACH credits to Client's settlement account are considered provisional until Bank receives final settlement from the applicable online payment processor. All payments credited to Client's settlement account, or otherwise owed to Client related to an online payment processor's online bill payment service are subject to any rights that online payment processor may have to unwind transactions and exercise setoff under that online payment processor's terms, including the right to reversals.

c. Client is responsible for reconciling the remittance information to the ACH settlement credit each day. If Client is unable to reconcile the two, Client must notify Bank of the inconsistencies by the end of the banking day on the day of settlement. If Client notifies Bank in the time required, Bank will assist Client with any research requests to the applicable online payment processor regarding the inconsistencies.

4. Returns and Reversals.

   a. If Client is unable to successfully post a payment, then Client must return such payment through the Electronic Lockbox Returns function as described in the Electronic Lockbox reference materials.

   b. Unless "guaranteed payment" (offered by some online payment processors) applies, processors can initiate reversals of payments previously made to Client through that online payment processor's online bill payment service. Reversals received from the processors will be debited from Client's settlement account via ACH and reported to Client within the Electronic Lockbox web application. Bank will not have any liability for any reversals processed through an online payment processor's online bill payment service.

5. Limitation of Liability; Disclaimer; Indemnity. In addition to any other limits on Bank's liability in this agreement and to the extent permitted by applicable law, Client agrees that Bank will not have any liability for any acts or omissions of an online payment processor (including, without limitation, (a) any error or delay in processing any payments or remittance information, including any error or delay in initiating any funds transfers to Client, (b) any breach of confidentiality of any information, including any of Client's or Client's customers' payment, account or personal information, (c) the inaccuracy of any remittance information, or (d) any reversals or other debits initiated against Client's account). In addition to any other indemnity obligation Client has under this Agreement and to the extent permitted by applicable law, Client agrees to indemnify and hold Bank harmless from and against any claims, liabilities, losses, damages, costs and expenses (including, without limitations, attorneys' fees) arising from or related to (i) any amounts or other obligations Bank owes an online payment processor that are related in any way to Client's use of that online payment processor's online bill payment service, (ii) faulty or erroneous information or instructions Client gives Bank or an online payment processor, (iii) any of Client's errors or delays in posting a payment to Client's accounts receivable system, (iv) any breach of Client's obligations under these Electronic Lockbox terms and conditions, or (v) any of Client's acts or omissions which result in a breach by Client or Bank of the terms of any online payment processor's documentation.

6. Online Payment Processor Documentation. Client's use of the Electronic Lockbox service is subject to the terms of each online payment processor's documentation. Client agrees to take all actions Bank or such processor deem necessary for compliance with each online payment processor's documentation. Client agrees that the Bank is not obligated to take any action under these Electronic Lockbox terms and conditions that would cause Bank to breach the provisions of any online payment processor's documentation. Client agrees that none of Bank's obligations under any online payment processor's documentation create obligations for Bank under these Electronic Lockbox terms and conditions unless expressly set forth as Bank's obligations in these Electronic Lockbox terms and conditions.

7. Electronic Lockbox Web Application. The Electronic Lockbox web application provides internet-based access to Client's online bill payment detail with flexible viewing parameters and search capability with 2 years of historical data. This web application allows users to change their passwords, download posting files, create stops or swaps, view reports and return invalid transactions. Client's Primary Administrator is responsible for setting up and maintaining Client's users' access to the application, which includes various roles for users.

8. Additional Services. The following features are optional for Electronic Lockbox:

   a. HOA (Homeowner Association)/Property Management Multi DDA-ability to post to multiple DDAs but under one Company ID (note: Client must have ability to provide HOA table or validation file).

   b. Validation/Stop File-allows more valid accounts to post and or stop invalid accounts from posting (note: Client must provide validation or stop file).

   c. Web Exceptions-ability for Client to decision items that would otherwise be returned to the payor because they do not pass Client's validation file (note: Client must provide validation file to have Web Exceptions).

Image Cash Letter

1. Description of Image Cash Letter Service. The Image Cash Letter ("ICL") service allows Client to transmit files containing electronic images of batches of checks and associated information describing each check along with

check total information in place of forwarding the original checks to Bank for deposit. Each image and its associated information is an "Image" and a file containing Images and associated information is a "Letter". Details regarding ICL's functionality and certain formatting and other technical requirements that Client must follow when using ICL are provided in the ICL reference materials (which include, but are not limited to, a user guide). ICL is intended for transmission of Client's Images in a single file, not as separate transmissions for each Image. The ICL service may also encompass image quality analysis adjustments, image integrity analysis adjustments, duplicate item or duplicate file adjustments, and return item adjustments all as defined in the ICL reference materials. Client shall not use the ICL service outside the United States or to transmit files from outside the United States without Bank's prior written approval, or to transmit an electronic image of a remotely created check (as that term is defined in Regulation CC of the Federal Reserve Board, "Reg CC"). These ICL terms and conditions do not otherwise affect any other agreement between Client and Bank relating to the deposit of original checks.

2. Operation of the ICL Service. Client may use the ICL service with respect to the account(s) designated for the service.

   a. Each Image within a Letter is an "item" as defined in the Uniform Commercial Code as adopted in the state whose laws govern this Agreement and a "check" as defined in Reg CC, and each Image will be negotiated as such. Each Image must contain an exact image of the front and back of the original check with full-field magnetic ink character recognition (MICR) line encoding (absent the amount). Client should endorse the original check prior to image capture and Client must provide an electronic endorsement record in accordance with the ICL reference materials. Each Letter must be formatted as provided in the ICL reference materials, including but not limited to the batching of images, file specification requirements (including a Cash Letter Control Record) and use of standard American National Standards Institute's ("ANSI") file formats. To be eligible for processing, an Image must meet the requirements for items eligible for exchange as outlined in the ICL reference materials. At a minimum, the original documents of any Image must be a negotiable instrument the Uniform Commercial Code and all characters in all magnetic ink character recognition ("MICR") fields present on each document must be readable. It is not acceptable to pass digit errors (represented by an * within a MICR field) to Bank on any Image sent to Bank. All fields on the MICR line of an Image must be repaired prior to forwarding any Letters to Bank. Client warrants that any repair of the MICR line fields will be repaired accurately.

   b. Client must transmit each Letter to Bank through one of Bank's online services. To submit a Letter to Bank, Client is required to comply with applicable security procedures for that online service, including but not limited to use of valid access credentials to login to the online service. Any Letter transmitted to Bank in accordance with those security procedures will be deemed a Letter submitted by Client. Transmission times, Letter receipt times, other applicable deadlines and transmission locations are set forth in the ICL reference materials.

   c. Each Letter and the Images contained therein must meet Bank's quality standards for processing as described in the ICL reference materials. Those standards are referred to in these ICL terms and conditions as the "ICL standards." Bank may add to or change the ICL standards at any time upon notice to Client. Once Bank receives Client's Letter, Bank will process each Image in that Letter that are "on-us" items (meaning that the items are drawn on Truist Bank). Bank offers qualified and unqualified versions of the ICL service. In order to use the "qualified ICL service", a version of the ICL service that does not require Bank to perform additional image quality analysis and image integrity analysis, Client must represent to Bank that Client's imaging process verifies that the Images included in a File meet Bank's ICL standards and any other applicable image quality or other standards as required in the ICL reference materials. If Client's imaging process does not produce acceptable images, Client will be required to use Bank's "unqualified ICL service" which is a version of the ICL service that performs image quality analysis and image integrity analysis on all items in each Letter. The unqualified ICL service may require an earlier file receipt time as described in the ICL reference materials. All Letters are also subject to duplicate item and duplicate file detection Bank may perform at Bank's discretion, but the responsibility for not submitting duplicates is solely Client's responsibility and Bank assumes no responsibility if Bank's process fails to detect any duplicate. If Image and associated information satisfies the ICL standards, then the Letter will be accepted, and Bank will begin processing the contents of the Letter. If Bank determines an Image or the associated information does not satisfy the ICL standards, the Image may be rejected and dropped from the Letter or the Letter, and all Images contained therein, may be rejected. A summary debit adjustment will be made to Client's account and a debit advice will be sent to Client.

   d. In addition, any Image and associated information included in a Letter must satisfy the quality standards of the Federal Reserve Bank or other collecting bank to which Bank forwards an Image and associated

information for collection, the "collecting bank quality standards." Collecting bank quality standards include the parameters of Images relative to length, height, corners, document skew, darkness/lightness, noise and Image size compression. These standards are provided in the reference materials. Image quality adjustment detail reporting will be facilitated through the use of Bank's Online Courier service if Client elects to use that service. All Images failing to meet collecting bank quality standards will be sent to Client as a return advice. There are no specific timelines for these types of adjustments, but they are usually completed within 30 business days of deposit.

e. If an Image is rejected for failing to meet the ICL standards or the collecting bank quality standards, Client must take corrective action to either recapture the Image and associated information and submit it in a new Letter or submit the original check for deposit. Once Client has transmitted a Letter to Bank, Client may not cancel it unless Bank has rejected the Letter or Images in the Letter. If more than two percent of the Images in a Letter fail to meet the ICL standards, the entire Letter may be rejected, which will require Client to resubmit that Letter.

f. Once Bank has accepted a Letter for processing, Bank will use each Image in that Letter to process the Image as an electronic item or, at Bank's option, to create a substitute check (as defined in Reg CC). If Bank elects to process an Image as an electronic item, Bank will process that Image for deposit to Client's account and forward it for presentment to the drawee bank (as defined below) through the electronic item collection channels that Bank would otherwise use to present an electronic item to the drawee bank. If Bank uses an Image to create a substitute check, then Bank will process that substitute check for deposit to Client's account and forward it for presentment to the financial institution on which the original check was drawn or through or at which it was payable (that institution is referred to in these ICL terms and conditions as the "drawee bank") through the check collection channels that Bank would otherwise use to present a check to the drawee bank. In either event, Client's deposit will be subject to the terms of any agreement Bank has with other financial institutions relating to the presentation of electronic items, and subject to all applicable terms of the Uniform Commercial Code and the Truist Commercial Bank Services Agreement relating to processing of the items. Bank will make funds for each electronic item or substitute check that Bank processes for deposit to Client's account available to Client under the float schedule assigned to Client's account based on the banking day that Bank received the Letter containing a conforming Image of that check; assigned account-specific float schedules are available upon request.

g. Bank must receive Client's Letter by the receipt times set forth in the ICL reference materials. In that regard, Bank is not liable for any delays or errors in transmission of a Letter. If the online service Client uses to transmit Client's Letter is not available, Client must make Client's deposits by another method. Client may not transmit to Bank a Letter which exceeds 20,000 items per file if Client is using the unqualified ICL service, or 25,000 items per file if Client is using the qualified ICL service. Client may, however, send more than one Letter each day prior to the applicable receipt time.

h. Client agrees to make original checks available to Bank promptly upon request. Client agrees that Client will not capture more than one Image of any original check and that Client will not negotiate, deposit or otherwise transfer any original check to Bank or to any other person or entity after Client has captured an Image of the check. Client also agrees that (i) Client will not transmit an Image of any original check to Bank more than once (unless that item has been returned to Client by Bank for corrective action), (ii) Client will not transmit an Image of any original check to Bank that Client previously transmitted to any other person or entity, (iii) Client will not transmit an Image of any original check to any other person or entity after Client has transmitted it to Bank; (iv) Client will not transmit an Image of any original check to Bank if that check has been used as a source document for the initiation of an Automated Clearing House ("ACH") or other electronic debit; and (v) Client will not use any original check as a source document for the initiation of an ACH or other electronic debit after Client has transmitted an Image of that check to Bank. Client agrees to use commercially reasonable procedures to safeguard the original checks, images and associated information in Client's possession to ensure such checks are not negotiated beyond ICL.

i. If there is any discrepancy between the Image count and/or the total dollar amount of the Letter and Bank's count of Images and/or the total dollar amount of Images included in the Letter, Bank's count will control and the Letter may be rejected. Bank will also debit Client's account and send Client a deposit adjustment notice for any image which was rejected by Bank for failing the ICL standards, was determined to be a duplicate, or rejected for failing the collecting bank quality standards, or returned by any collecting bank for any reason.

j. Bank may reject, impose a special fee and/or delay processing of any Letter if (i) the Letter was not prepared and formatted in accordance with the requirements set forth in the ICL reference materials or does not

otherwise meet the requirements contained in these terms and conditions, (ii) the number of Images in the Letter or the total dollar amount of the Letter does not match what is included in the Letter control record for the Letter delivered to the Bank and as more particularly described in the reference materials, or (iii) the number of Images in a Letter transmitted to Bank exceeds the number permitted under these ICL terms and conditions.

k. Returns will be handled by printing substitute checks and returning them through existing return channels.

3. Client's Representations and Warranties. Client makes all of the representations and warranties to Bank with respect to each Image and associated information that Client transmits to Bank that Client would have made if Client had deposited the original check into Client's account. In addition, Client represents and warrants to Bank with respect to each Image and associated information that Client transmits to Bank that (a) the Image and associated information (i) accurately represent all of the information on the front and back of the original check at the time the Image and associated information were captured and (ii) are otherwise sufficient for Bank to satisfy Bank's obligations as the truncating and/or reconverting bank, and (b) no person or entity will receive a transfer, presentment or return of, or otherwise be charged for, (i) the original check, (ii) an electronic item or substitute check that Bank creates from the image and associated information, or (iii) a paper or electronic representation of the original check or of a substitute check that Bank creates from the image and associated information, such that the person or entity will be asked to make a payment based on a check that it has already paid.

4. Client's Indemnification Obligations. In addition to any other obligation Client has to indemnify Bank, Client agrees to indemnify and hold Bank and Bank's affiliates harmless from and against any and all liabilities, claims, damages, losses, demands, fines (including those imposed by any Federal Reserve Bank, clearing house or funds transfer system), judgments, disputes, costs, charges and expenses (including litigation expenses, other costs of investigation or defense and reasonable attorneys' fees) which relate in any way to (a) the receipt by any person or entity of (i) an electronic item, (ii) a substitute check or (iii) a paper or electronic representation of the original check or the substitute check that Bank creates from an electronic check image and associated information that Client transmits to Bank, instead of the original check, or (b) any encoding error on any check included in an image cash letter, or (c) any duplicate item or duplicate file created or authorized by Client, or (d) the delayed processing of any returned items by any subsequent bank for any items that were processed as electronic items, or (e) a remotely created check being included in an image cash letter.

Image Cash Letter Service for Web Instaposit Users

1. Description of Image Cash Letter Service for Web Instaposit User. The Image Cash Letter for Web Instaposit ("Instaposit") service allows Client to use the ICL service by submitting Images and Letters through Web Instaposit, an internet based web portal, in place of presenting the original checks to Bank for deposit. Details regarding Instaposit's functionality and certain formatting, transmittal and processing instructions, and other technical requirements that Client must follow when using the Instaposit service are provided during implementation of the service and/or within the Web Instaposit portal and are referred to as the "Instaposit reference materials." These Instaposit terms and conditions do not otherwise affect any other agreement between Client and Bank relating to the deposit of original checks.

2. ICL Terms and Conditions. The ICL terms and conditions are incorporated herein and apply to use of the Instaposit service, except as stated otherwise in these Instaposit terms and conditions or in the Instaposit reference materials. Terms defined in the ICL terms and conditions and used herein shall have the meanings set forth in the ICL terms and conditions. Web Instaposit is one of the online services used to transmit Letters to Bank per the ICL terms and conditions. By transmitting an Image to Bank via Web Instaposit, Client makes all the representations and agreements with respect to the Image as contained in the ICL terms and conditions, and agrees to the indemnification obligations set forth in the ICL terms and conditions. Once Bank receives a Letter, it will be processed according to the applicable ICL terms and conditions. All image quality and file specification requirements within the ICL terms and conditions apply to the Images transmitted via Web Instaposit, and Bank may delay processing of or reject any Image or Letter that fails to meet such requirements or for any other reason set forth in the ICL terms and conditions.

3. Rejections and Returns. Bank shall provide notice of any rejected or adjusted Images or Letters according to Client's instructions or, if Client has not provided instructions to Bank for delivery of such notices, Bank may provide the notice to Client per Client's contact information (according to Bank's records).

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Image Cash Letter Service for Financial Institutions

1. Description of Image Cash Letter Service for Financial Institutions. The Image Cash Letter for financial institutions or "ICL-FI" service allows Client to transmit files containing electronic images of batches of checks and associated information describing each check referred to as "presentment notice") along with check total information, (each such file an "image cash letter,") in place of forwarding the original checks to Bank for deposit. Details regarding ICL-FI's functionality and certain formatting and other technical requirements that Client must follow when using ICL-FI are provided in the ECCHO Rules (as defined herein), Section XIX and in the ICL-FI reference materials. By using this service, Client agrees to be bound by the Electronic Check Clearing House Organization Operating Rules referred to as "ECCHO Rules" for these electronic image transactions and Bank will sponsor Client's membership if Client is not currently a member of ECCHO. ECCHO Rules can be obtained at www.eccho.org. Unless otherwise agreed upon, Client will be charged for the ECCHO sponsorship fees. Unless otherwise indicated, terms used in these ICL-FI terms and conditions shall have the meanings ascribed to such terms in the ECCHO Rules. The ICL-FI service is intended for transmission of Client's presentment notice and electronic images in a single file, not as separate transmissions. The ICL-FI service may also encompass image quality analysis adjustments, image integrity analysis adjustments, duplicate item or duplicate file adjustments, and return items adjustments all as defined in the ICL reference materials. Client shall not use the ICL-FI service outside the United States and files may not be submitted from outside the United States without Bank's prior written approval, or to transmit an electronic image of a remotely created check (as that term is defined in Regulation CC of the Federal Reserve Board, "Reg CC"). These ICL-FI terms and conditions do not otherwise affect any other agreement between Client and Bank relating to exchanges under the ECCHO Rules or deposit of original checks.

2. Operation of the ICL-FI Service. Client may use the ICL-FI Service with respect to the account(s) designated for the service.

    a. Each electronic check image included in an image cash letter is an "item" under the Uniform Commercial Code, a "check" under Reg CC and an "item" under ECCHO Rules which must be an exact image of the front and back of the original check with full magnetic ink character recognition ("MICR") line information. Client must endorse the original check or the electronic check image with the bank of first deposit endorsement in accordance with standard American National Standards Institute's ("ANSI") endorsement requirements, ECCHO Rules and ICL-FI reference materials. Each image cash letter must be formatted, including the batching of images, as provided in the ECCHO Rules and the ICL-FI reference materials. To be eligible for processing, an electronic check image must meet the items eligible for exchange requirements as outlined in the ECCHO Rules, Section III (A). The ECCHO Rules require, at a minimum, that the item be a negotiable item, and all characters in all MICR fields present on the document must be readable. This will allow Client to capture the information required for the image cash letter. Repair of the MICR line on documents in order to make the items eligible for processing must be done with responsibilities assigned as outlined in ECCHO Rules, Section III(B). It is not acceptable to pass digit errors to Bank (represented by an * within a MICR field) on any file forwarded to Bank. All fields on the document must be repaired prior to forwarding any files. Repair of the MICR line fields will be governed by ECCHO Rules.

    b. Client must transmit each image cash letter to Bank through one of Bank's online services which support the transmission of image cash letters. To submit an image cash letter to Bank through an online service, Client is required to comply with the security procedures for that online service. Any image cash letter transmitted to Bank in accordance with those security procedures will be deemed an image cash letter submitted by Client. Transmission times, cutoff times, other applicable deadlines and transmission locations are set forth in the ICL-FI reference materials.

    c. Each image of (and associated information regarding a check) included in an image cash letter must meet Bank's quality standards for processing an image for deposit as described in the ECCHO Rules and the ICL-FI reference materials. Those standards are referred to in these ICL-FI terms and conditions as the "ICL-FI standards." Bank may add to or change the ICL-FI standards at any time upon notice to Client. Once Bank receives Client's image cash letter, Bank will process each image and associated information included in that image cash letter that are "on-us" items (meaning that the items are drawn on Truist Bank). Bank offers qualified and unqualified versions of the ICL-FI service. In order to use the "qualified ICL-FI service", a version of the service that does not require Bank to perform additional image quality analysis and image integrity analysis, Client must represent to Bank that Client's imaging process verifies that the images in an image cash letter meet Bank's ICL-FI standards and any other applicable image quality or other standards as required in the reference materials. If Client's imaging process does not produce acceptable images, Client

will be required to use Bank's "unqualified ICL-FI service", the version of the service that performs image quality analysis and image integrity analysis on all items in each image cash letter. The unqualified ICL-FI service may require an earlier file receipt time as described in the ICL-FI reference materials. All image cash letters are also subject to duplicate item and duplicate file detection Bank may perform at Bank's discretion, but the responsibility for not submitting duplicates is solely Client's responsibility and Bank assumes no responsibility if Bank's process fails to detect any duplicate. If the images and associated information satisfies the ICL-FI standards, then the image cash letter will be accepted, and Bank will begin processing the contents of the image cash letter. If Bank determines an image or associated information does not satisfy the ICL-FI standards, the image may be rejected, which shall mean those items are sent back to Client for reasons of poor quality or missing images, and Bank will provide Client with a list of rejected images and a research and adjustment debit advice. In addition, any image and associated information included in an image cash letter must satisfy the quality standards of the Federal Reserve Bank or other collecting bank to which Bank has forwarded an image and associated information for collection, the "collecting bank standards." All check images which fail to meet Federal Reserve Bank quality standards will be returned as an advice to Client. All check images which fail to meet collecting bank quality standards will result in items coming back to Client in return item processing. If an image is rejected for failing to meet the ICL-FI standards or the collecting bank standards, Client must either recapture the image and associated information and submit it in a new image cash letter or submit the original check for deposit. Once Client has transmitted an image cash letter to Bank, Client may not cancel it.

d. Once Bank has received an image cash letter for deposit, Bank will use each image and associated information included in that deposit to create a substitute check (as defined in Reg CC) or, at Bank's option, process it as an electronic item. If Bank uses an image and associated information to create a substitute check, Bank will process that substitute check for deposit to Client's account and forward it for presentment to the financial institution on which the original check was drawn or at which it was payable (that institution is referred to in these ICL-FI terms and conditions as the "drawee bank") through the check collection channels that Bank would otherwise use to present a check to the drawee bank. If Bank elects to process an image and associated information as an electronic item, Bank will process that image for deposit to Client's account and forward it for presentment to the paying bank through the electronic item collection channels that Bank would otherwise use to present an electronic item to the paying bank. In either event, Client's deposit will be subject to the terms of any agreement Bank has with other financial institutions relating to the presentation of electronic items, and subject to all applicable terms of the Uniform Commercial Code and the Truist Commercial Bank Services Agreement relating to processing of the items. Bank will make funds for each substitute check or electronic item that Bank processes for deposit to Client's account available to Client under the float schedule assigned to Client's account based on the banking day that Bank received the file containing a conforming image of that check.

e. Bank must receive Client's image cash letter by the deadline set forth in the ICL-FI reference materials. In that regard, Bank is not liable for any delays or errors in transmission of an image cash letter. If the online service Client uses to transmit Client's image cash letter is not available, Client must make Client's deposits by another method. Client may not transmit to Bank an image cash letter which exceeds 20,000 items per file if Client is using the unqualified ICL-FI service, or 25,000 items per file if Client is using the qualified ICL-FI service. Client may, however, send more than one image cash letter each day prior to the applicable receipt time.

f. Client agrees to make original checks available to Bank promptly upon Bank's request. Client agrees that Client will not capture, nor will Client allow any of Client's customers to capture, more than one image of any original check and that Client will not negotiate, deposit or otherwise transfer, or allow any of Client's customers to negotiate, deposit or transfer, any original check to Bank or to any other person or entity after Client (or Client's customer) has captured an image of the check. Client also agrees that (i) Client will not transmit an image of any original check to Bank more than once (unless that item has been returned to Client by Bank for corrective action), (ii) Client will not transmit an image of any original check to Bank that Client or one of Client's customers has previously transmitted to any other person or entity, (iii) neither Client nor any of Client's customers will transmit an image of any original check to any other person or entity after Client has transmitted it to Bank; (iv) Client will not transmit an image of any original check to Bank if that check has been used as a source document for the initiation of an Automated Clearing House ("ACH") or other electronic debit; and (v) neither Client nor any of Client's customers will use any original check as a source document for the initiation of an ACH or other electronic debit after Client has transmitted an image of that check to Bank. Client agrees to use and cause Client's customers to use commercially reasonable security

procedures to safeguard the original checks, images and associated information to ensure such checks are not negotiated beyond ICL-FI.

g. If there is any discrepancy between check image count and/or the total dollar amounts of the deposit reflected by Client in an image cash letter and Bank's count of check images and/or the total dollar amount of images included in the image cash letter, Bank's count will control and the image cash letter may be rejected. Bank will also debit Client's account and send Client a deposit adjustment notice for any image which was rejected by Bank for failing the ICL-FI standards, was determined to be a duplicate, rejected for failing the Federal Reserve Bank quality standards or the collecting bank standards, or returned by any collecting bank for any reason.

h. Bank may reject, impose a special fee and/or delay processing of any image cash letter if (i) the image cash letter was not prepared and formatted in accordance with the requirements set forth in the ECCHO Rules and ICL-FI reference materials or does not otherwise meet the requirements contained in these terms and conditions, (ii) the number of checks images or batches of check images in the image cash letter, the dollar amount of a batch of check images in an image cash letter or the total dollar amount of the image cash letter does not match what is included in the presentment notice for that image cash letter, or (iii) the number of check images in all image cash letter files transmitted to Bank exceeds the number permitted under these ICL-FI terms and conditions. Returns will be handled by printing substitute check documents and returning them through existing paper return channels. As a financial institution, Client acts as the bank of first deposit ("BOFD") on all items Client deposits with Bank. This will require Client to place a BOFD endorsement on all physical items deposited and/or a 26 record containing the BOFD record on all image cash letter items deposited with Bank. This endorsement must be in compliance with Reg CC regarding content and placement, ANSI x9.37 standards, and as provided in ECCHO Rules Section XIX (E).

i. As the BOFD, Client is expected to be the primary point of resolution of all research items. As the BOFD, Client's organization has total access to the clearing cycle of each item deposited with Bank. As Client's clearing agent, Bank does not have access to all of the returns information and as such Bank is less able to resolve all research items. Client may re-deposit indemnified copies of previously missing items with Bank at any time through any depository channel.

3. Client's Representations and Warranties. Client makes all of the representations and warranties to Bank with respect to each electronic check image and associated information that Client transmits to Bank that Client would have made if Client had deposited the original check into Client's account. Client further agrees to the Sending Bank Warranties and Indemnification as provided in ECCHO Rules Section XIX (M).

4. Client's Indemnification Obligations. In addition to any other obligation Client has to indemnify Bank, Client agrees to indemnify and hold Bank and Bank's affiliates harmless from and against any and all liabilities, claims, damages, losses, demands, fines (including those imposed by any Federal Reserve Bank, clearing house or funds transfer system), judgments, disputes, costs, charges and expenses (including litigation expenses, other costs of investigation or defense and reasonable attorneys' fees) which relate in any way to (a) the receipt by any person or entity of (i) an electronic item, (ii) a substitute check or (iii) a paper or electronic representation of the original check or the substitute check that Bank creates from an electronic check image and associated information that Client transmits to Bank, instead of the original check, or (b) any encoding error on any check included in an image cash letter, or (c) any duplicate item or duplicate file created or authorized by Client, or (d) the delayed processing of any returned items by any subsequent bank for any items that were processed as electronic items, or (e) a remotely created check being included in an image cash letter.

Image Statement Transmission Service

1. Description of Image Statement Transmission Service. This service provides delivery of checking and savings account statements for designated accounts via data transmission. Image Statement Transmission provides a zip file of all PDF statements with the same end cycle dates. Client will receive the transmission the day following the end statement cycle date. Details regarding Image and Statement Transmission's functionality and formatting are provided in the Image Statement Transmission reference materials.

2. Paper DDA Statement Suppression. Paper checking and savings statements for all accounts included in Image Statement Transmission are automatically suppressed. Suppression will begin upon successful completion of the transmission testing. In the event Client opts to receive a paper statement as well as Image Statement Transmission for any account, additional fees will apply.

Integrated Payables Service

1. Description of Integrated Payables Service. The Integrated Payables ("IP") service is a service where, in accordance with Client's service elections, Bank will print and disburse checks, create and transmit entries to settle through the Automated Clearing House ("ACH") Network, initiate U.S. Dollar wire transfers, and/or create and process commercial card payments to pay Client's designated payees. Details regarding the functionality of the IP service, file delivery methodology, security procedures, and certain formatting and other technical requirements that Client must follow when using the IP service are provided in the IP reference materials. Client must designate a Primary Administrator for IP within a Primary Administrator Designation agreement (or other similar agreement accepted by Bank).

2. Processing of Payments.

   a. For each payment entry included in an IP data file Client transmits to Bank, Bank will print and disburse a check, create and transmit an ACH credit entry or a commercial card payment, or initiate a U.S Dollar wire transfer payment. Each payment entry will be drawn on or settle to the applicable designated account. Client's use of each payment type within the IP service is subject to Bank's approval and completion of any additional documentation or agreements relating to the payment type that may be required by Bank.

   b. For each payment entry to be paid by check, the check will be printed in accordance with the format specifications established between Client and Bank. Checks can be denominated in U.S. dollars only, or, if the check is drawn on a Canadian currency account, in Canadian dollars. Bank will disburse checks by either U.S. mail or courier as designated by Client, with associated costs passed through to Client. Bank shall have no responsibility for any checks once delivered to the United States Postal Service or Client's courier.

   c. For each payment entry to be paid via ACH credit entry, Client will be the originator of the ACH entry Bank creates from Client's IP data file. The ACH Origination service terms and conditions are incorporated by reference herein, and all applicable provisions of such terms and conditions apply to ACH entries originated through the IP service. Terms that are defined in the ACH Origination terms and conditions have the same meanings when used in these IP terms and conditions.

   d. For each payment entry to be paid via U.S Dollar wire transfer, Client will be the authorized sender of the payment order Bank initiates from Client's IP data file. The Truist Wire Agreement is incorporated by reference herein, and all applicable provisions of such Wire Agreement apply to wire transfers initiated through the IP service. Terms that are defined in the Wire Agreement have the same meanings when used in these IP terms and conditions.

   e. In order to include commercial card payables files in the IP data file, Bank must have agreed to provide Client a commercial card account and Bank's associated card program management solution. Client must execute a Commercial Card Agreement with Bank and any additional documentation Bank may require relating to the card program management solution (together, the "Commercial Card Agreements"). The Commercial Card Agreements are incorporated by reference herein, and all applicable provisions of the Commercial Card Agreements apply to commercial card payments transmitted through the IP service.

   f. Remittance data included with Client's IP data file may be printed with the corresponding checks, made available at Bank's designated website for a registered payee, emailed to a registered payee or sent by separate mailing for ACH entries or U.S. Dollar wire transfers to the payee at the address provided by Client.

3. Transmission of Client's Integrated Payables Data File. Client must transmit the IP data file to Bank (i) through a designated website or (ii) through Straight Through Processing ("STP") by using Bank's File Transfer transmission method, as more specifically described in the reference materials. As used herein, "File Transfer" means the secure transmission of files to and from Bank using an internet browser or secure FTP (File Transfer Protocol). The File Transfer transmission method may also be referred to as "direct transmission." If the IP data file requires file translation before it can be processed by Bank, one of Bank's file translation services must be used to translate the file into a format that can be processed. Client must transmit the IP data file to Bank by the cut-off deadline established by Bank; otherwise, the IP data file may not be processed or processing may be delayed. In order to make a change to Client's IP data file (other than adding one or more payment entries), including changes in formatting, adding an account, or changing the settlement account for a payment entry, Client must test the changes with Bank, to Bank's satisfaction, before transmitting a data file containing the changes; failure to test a changed IP data file may result in the data file not processing or delay in processing.

Bank will notify Client each time an IP data file is received. Client is required to validate and/or provide control totals to release the file for processing, as described in Section D below.

Client is responsible for payment entries included in IP data file that are submitted and released for processing according to the terms herein, even if the payment entry is a duplicate of another payment entry or otherwise is submitted in error. Bank is under no obligation to determine if an IP data file or any payment entry in an IP data file is a duplicate of a previously submitted IP data file or payment entry. For files sent to Bank using File Transfer, Client must provide Bank with all IP addresses from which files will be sent and must update these IP addresses when changes are made, as Bank's system will recognize and process only files transmitted from an IP address that Client has provided to Bank. Client will designate individuals that Bank may contact to resolve processing issues with Client's IP data files and Client authorizes Bank to release information to these individuals regarding the data files.

4. Cancellation Instructions. Bank has no obligation to comply with any request to cancel the processing of any IP data file, to amend any payment entries, to pull from disbursement a printed check, or cancel any ACH entry, commercial card payment, or U.S. Dollar wire transfer file created in accordance with Client's IP data file. As an accommodation to Client, however, Bank will use good faith efforts to comply with Client's request to cancel the processing of an IP data file or a payment entry, or pull a printed check from disbursement, if Client's request complies with any applicable cancellation requirements and Bank receives the request at a time and in a manner that gives Bank a reasonable opportunity to act on the request. Bank is not liable if Bank is unable to honor Client's request to cancel such processing if an IP data file or payment entry. Client agrees to reimburse Bank for any expenses Bank may incur in attempting to honor any such requests. Note that for commercial card payables files, any changes to a file (including cancellation) that has been submitted through IP must be made by logging in to the card program management solution.

5. Security Procedures. Client agrees that use of the IP service constitutes acceptance of the below security procedures.

   a. Data File Transmission and Access Credentials. Client must comply with applicable security procedures and requirements for the transmission method used to transmit an IP data file to Bank. For transmission methods that require access credentials, valid access credentials are required for log in to the transmission method application and/or to transmit a file. Valid access credentials are also required to log in to the designated website for file validation and control total submission, if applicable.

   b. Control Totals and Payment Approvals. If Client uses the STP file delivery option, an entitled user must submit the control total file along with the IP data file via File Transfer, and if the file totals match, the file will be released for processing.

      If Client transmits the IP data file to Bank through a designated website, an entitled user(s) must validate and approve payments within the designated IP website, or an entitled user must submit a matching control total (consisting of the aggregate dollar amount of all payment entries in the file), before the IP data file is processed by Bank.

      Bank strongly recommends that Client segregate duties within the IP service such that a single user is not entitled to perform all functions required to release payments for processing.

   c. Payee Access. Payee registration and valid access credentials are required for access to Bank's online remittance reporting feature or vendor enrollment feature. Client is responsible for providing registration instructions and initial access credentials to payees.

6. Creation of Issue File for Positive Pay, Account Reconciliation Plan, or Controlled Payment Reconciliation Services. Client may elect for the printed check information included in Client's IP data file to be used by Bank to create a Positive Pay, Account Reconciliation Plan, or Controlled Payment Reconciliation service issue file on Client's behalf to be used in connection with one of those services used by Client. By making this election, Client authorizes Bank to create an issue file on Client's behalf on each day on which checks are printed against any Truist account that is included in Client's setup for Positive Pay, Account Reconciliation Plan, or Controlled Payment Reconciliation service. Client's use of the Positive Pay, Account Reconciliation Plan, or Controlled Payment Reconciliation service is governed by the terms and conditions for each service.

7. Payee Access. Payees have access to several optional features of IP service through a designated website.

   a. Online Remittance Reporting Feature. Before a payee can access Bank's online remittance reporting feature, that payee must register in the designated website and agree to terms and conditions for use of the website. Through the website, registered payees may utilize the online remittance reporting feature to view and

download documents and information in connection with payments, including remittance data and statements.

b. Vendor Enrollment. Under the vendor enrollment feature, Bank collaborates with Client on outreach to Client's vendors to obtain vendors' election to receive electronic payments (ACH or commercial card) instead of checks. This election of the vendor (payee) is for Client's information and Bank has no duty to comply with Client's payee's election to receive payments by ACH or commercial card, but Client may choose to change the payment type for the payee by specifying the applicable payment type in Client's IP data file.

c. IP Vendor Services. Client or Client's payees may elect to obtain additional services directly from Bank's IP vendor, including, but not limited to, data download capabilities. Bank does not provide these additional services and such services are subject to the agreement solely between the vendor and Client, and vendor is not acting on behalf of Bank in providing such additional services to Client. Bank has no obligations or liabilities with respect to such additional services and is not responsible for any obligations or liabilities that may arise in the course of the vendor providing such additional services directly to Client or Client's payees.

8. Document Printing. The document printing services provided hereunder will be limited to the printing of invoices and other documents approved by Bank (collectively, "Documents"). Client will submit separate data files for processing the Documents as agreed upon during implementation of the Document printing services.

9. IP Reconciliation File Service Option. Client can select this option to receive a single monthly or daily file of the IP check, ACH and commercial card (but not wire) payments that have been settled against Client's account(s).

Integrated Receivables Service

1. Description of Integrated Receivables Service. The Integrated Receivables ("IR") service is an online browser, information reporting and archive service that allows Client to receive a custom extract file of Client's receipt information in a consolidated format. Details regarding IR functionality and formatting and other technical requirements that Client must follow when using the IR service are provided in the IR reference materials. The IR service allows for the extraction and reporting of receipt information from certain of Bank's source payment channels and treasury management services as designated by Client during implementation of the service. Client acknowledges and agrees that the data provided within the IR service consists of information initially received through the applicable source payment channel or treasury management service, and such data may not reflect the final information that is posted to such source payment channel or treasury management service (for example, if a transaction initially received from a channel or service is later adjusted or rejected). Therefore, data within the IR service may not reflect final posted transaction information from the applicable source payment channel or treasury management service, and Client must refer to the source payment channel or treasury management service for any final and correct transaction information.

2. Access and Administration. Client will access the IR service through one of Bank's online services. Client must designate a Primary Administrator for the IR service on a Primary Administrator Designation agreement or other similar document accepted by Bank.

3. IR Functionality. The IR service offers the following functionality:

   a. Images and/or Data Archive. Entitled users have access to receivables images and/or data based on the archive storage option Client selects from options provided by Bank. Image and/or data archive information is delivered to the IR solution throughout the day once transactions are completed in the source channel (i.e., ACH, Wire, Lockbox). Bank will have no obligation to retain images or data beyond the retention period selected by Client.
   b. Dashboard. The dashboard page of the service functions as an information repository and permits entitled users to view images and/or data of payments by workgroup ID or payment source, and view batch and demand deposit account summary and detail. A workgroup ID is a number assigned to facilitate a logical grouping of Client's receipt transactions as defined by routing and demand deposit account by channel(s) as designated by Client during implementation of the service. The dashboard includes a graphical representation of transactional detail which shows daily total processing volume by channel.
   c. Archive Search. The IR service is configurable and can receive processed items from certain other Truist treasury management receivables services used by Client. Items are automatically archived and made available for searching, viewing, reporting and printing or download. Archived images and/or data are

available based on the archive retention period Client selects from options provided by Bank. Images and/or data will be purged following the end of the specified retention period at the end of each business day.

4. Reporting. The IR service provides entitled users with access to pre-formatted reports available for online view, download or print. Images and/or data available for reporting are based on the archive retention period selected by Client. The following reports are available:

   a. Extract Audit Report. This report includes all data extracts created manually by a user or data extracts created by the file extract scheduler. The file extract scheduler automatically generates file extracts based on a schedule specified by Client.

   b. User Access Reports. These reports include administration group and user reports, which show user activity, user access and user role assignments.

5. Extract File. The IR service allows Client to manually extract file output from the search feature or receive a system generated consolidated extract file in a format customized to Client's specifications. Extract file(s) consist of consolidated receipt information, which includes applicable images and/or data. System generated file(s) are available based on the schedule and frequency as defined during implementation. System generated extract file delivery options include direct transmission or downloading within the IR service.

6. Termination. Once the IR service is terminated, Client will no longer be able to access IR through the online service. Once the service is terminated, Client acknowledges that there will be no access or availability of stored images and/or data within IR. Therefore, it is advised that prior to termination of IR, users should download or otherwise confirm accessibility to previously generated consolidated extract files for any future reference or historical research needs.

7. Data Handling. The IR service will attempt to read and store payment and related document images and/or data it receives from the source system(s). Should the information received be unreadable because it is either in a format that cannot be interpreted or data is not formatted to the applicable industry file standards, these data points may be unsearchable and unavailable for inclusion in Client's consolidated extract file.

8. Credit Card Exclusions. For Clients that process credit card transactions within a Lockbox service or Online Bill Presentment and Payment service, Bank will make a reasonable attempt to identify these items and exclude them from loading into the IR service. Transaction information for these items will be made available within the source system. Bank will also use reasonable efforts to mask card information that may be included in an electronic bill payment received and reported via the IR service. However, Client acknowledges and agrees that certain card information may be reported through the IR service, and that such card information may not be masked or redacted. Client agrees that it is solely responsible for any obligations relating to exposure or access of such card information through Client's use of the IR service, and that Bank shall not be liable for any losses relating to such exposure or access.

Medical Lockbox Service

1. Description of Medical Lockbox Service. The Medical Lockbox service facilitates healthcare revenue cycle management by presenting information that allows Client to manage healthcare transaction data. These terms and conditions apply to services known as or previously known as Medical Data Lockbox and eClaim Revenue Gateway, and the term "Medical Lockbox service" within these terms and conditions generally includes both Medical Data Lockbox and eClaim Revenue Gateway. The Medical Lockbox service allows Client to reconcile healthcare claims data with paper and electronic remittance advices and other payment data received from third-party payers and patients. Claims, remittance advices, payment data, and correspondence are all processed through the service. The HIPAA compliant portal is available as part of the service for searching, viewing, archiving, and reporting. Further details regarding functionality of the Medical Lockbox service and information regarding certain formatting, security, and other technical requirements are provided in the Medical Lockbox reference materials. The Medical Lockbox service may not be used outside of the United States, U.S. territories, U.S. military bases or U.S. Embassies and files may not be transmitted to/from outside the United States unless transmitted from a U.S. territory, military base or embassy.

2. Lockbox Payment Data Processing. Utilization of Bank's Medical Lockbox service requires that Client also subscribe to a lockbox service provided by Bank. Bank will process each paper Explanation of Benefit (EOB), invoice remittance document or "coupon", check, draft, money order and other miscellaneous correspondence that is received in Client's lockbox according to Client's lockbox instructions. The lockbox payment data will be

sent each banking day by image transmission to the Medical Lockbox repository to optically lift the detailed data from all remittance advices for matching to the open claims file received from Client in order to convert the paper payment and remittance detail into an electronic posting file.

3. Paper Conversion, Claims Matching and Posting. To allow for electronic conversion and matching on previously submitted claims to the payment data received in or submitted through the Medical Lockbox service, Client must submit a file containing electronic copies of Client's healthcare claims data (relating to claims generated through Client's practice management system or hospital information system which Client has separately submitted to payers for payment) to the Medical Lockbox service. Client must submit Client's electronic claims and or other file(s) to Bank in ANSI 837 format or other format that Bank approves. The claims and data will then be processed through the Medical Lockbox service, converting paper payment and remittance detail to an ANSI 835 format, ready for posting into Client's practice management system.

4. Electronic Payment Data Processing. In addition to converting paper payments and remittance detail into post-ready electronic files, the Medical Lockbox service has the ability to receive and process existing 835 files along with ACH payment detail for re-association.

5. Correspondence. Medical Lockbox can also receive and lift certain critical data elements from Client's correspondence (denial letters, need for more information, etc.) These images and data can be searched and viewed within the Medical Lockbox portal.

6. Medical Data Lite. In addition to the full solution, which includes processing of ANSI 837 files and producing ANSI 835 files, Bank also offers a "Medical Data Lite" solution for clients that require certain data elements lifted from Client's paper lockbox remittance detail but do not have the ability to produce and retrieve said files. Medical Data Lite is not available for all Clients.

7. Reporting Options. The Medical Lockbox service offers various reporting and analytic options through the Medical Lockbox portal, as described in the Medical Lockbox reference materials.

8. Transmission, Primary Administrator, and Authorization Codes.

    a. Transmission. To send or receive certain electronic healthcare images and/or data to or from the Medical Lockbox service through Client's practice management system or hospital information system, Client must (i) establish a secure, direct file transmission with Bank, and/or (ii) send or receive images and/or data through the Medical Lockbox portal.

    b. Primary Administrator. Client must designate an individual as Client's Medical Lockbox Primary Administrator. This Primary Administrator can then create additional users and users with administrative entitlements (administrators).

    c. Authorization Codes. To log onto the Medical Lockbox portal, each of Client's users is required to enter that user's authorization codes. The user's initial authorization codes to access the Medical Lockbox portal will be supplied as described in the Medical Lockbox reference materials.

9. Use of Third-Party Suppliers and Clearinghouse Status. As part of the service, Bank's vendor or agent for the service or its agent may (a) process or facilitate the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction or (b) receive a standard transaction from another entity and process or facilitate the processing of health information into nonstandard format or nonstandard data content for the receiving entity. These actions may result in Bank's vendor or agent being classified as a healthcare clearinghouse for purposes of 45 C.F.R. § 160.103. However, Client acknowledges and agrees that neither such actions of Bank's vendor or agent nor any provision of these Medical Lockbox terms and conditions shall cause Bank to be considered as a healthcare clearinghouse within the meaning of 45 C.F.R. § 160.103.

10. Additional Terms. In addition to any other disclaimers or limits on Bank's liability in the Agreement, Client acknowledges and agrees that Bank has no responsibility for (a) Client's use of payment data or other information Client chooses to upload and/or access through the Medical Lockbox service to perform any management, tracking and/or reconcilement of claims functions, (b) the accuracy, integrity, legality, reliability, or appropriateness of any data submitted to Bank by Client, a third-party payer, or a third-party lockbox provider that is uploaded to the Medical Lockbox service, or (c) the failure of any third-party lockbox provider to send Client's lockbox image file to the Medical Lockbox service according to the instructions and by the deadlines set forth in the reference materials. Client also agrees that Client must comply with all requirements of the Health Insurance Portability and Accountability Act as amended from time to time and all related rules and regulations applicable to Client while using the Medical Lockbox service.

11. Authority for Other Entities. If Client requests that accounts or information of other entities be included in Client's setup of Medical Lockbox service, then Client represents and warrants to Bank that the other entity has given Client authority to add that entity's account or information to Client's setup of the Medical Lockbox service, including without limitation authority to submit or receive healthcare data and claims information of that entity to or from the Medical Lockbox service and to access any information and accounts of that entity through use of the Medical Lockbox service to the same extent as if Client owned that information and/or accounts.

12. Termination. Upon termination of the Medical Lockbox service, Bank can provide information on options to access historical images and data from the service to Client upon request. Additional fees may apply.

Multi-Bank Reporting Service

1. Description of Multi-Bank Reporting Service. The Multi-Bank Reporting service provides Client with a consolidated view of Client's account balance and transaction data from multiple bank.

    a. Inbound Multi-Bank Reporting. Bank receives Client's account information (balances and transactions) from one or more other financial institutions or third party vendors and loads the data into Truist Commercial Online, Truist Treasury Manager or Online Courier service.

    b. Outbound Multi-Bank Reporting. Bank sends Client's Truist account information (balances and transactions) to one or more other financial institutions or third party vendors. By electing Outbound Multi-Bank Reporting, Client consents to such transmission of Client's Truist account information to the designated third parties.

    Client many select to use Inbound Multi-Bank Reporting, Outbound Multi-Bank Reporting, or both.

2. Liability. Bank makes no representations with respect to and assumes no liability for the ability or willingness of other financial institutions or third parties to participate in the service, or for the correctness, accuracy, completeness, integrity or timeliness of any information or data whether (a) received by Bank from Client, a third party financial institution, vendor, or other source of data or (b) transmitted, reported, communicated, or broadcast by any such party.

Online Bill Consolidator Service

1. Description of Online Bill Consolidator Service. The Online Bill Consolidator ("OBC") service enables Client to receive remittance information regarding payments sent to Client through the online bill payment service of any third-party online payment processor (each, an "online payment processor") who participates in the OBC service. Client may use the OBC service with respect to the accounts and the online payment processors identified in Bank's records that are included in Bank's implementation of the OBC service. Details regarding the functionality of the service and requirements that Client must follow when using it are provided in the OBC reference materials.

2. Enrolling as a Biller.

    a. Client authorizes Bank to establish a "biller profile" using information Client provides Bank during implementation of this service. Client must ensure that all information Client gives Bank or that Client provides directly to a processor to enroll in the service is complete and accurate.

    b. Client represents and warrants to Bank that Client does not owe any outstanding amounts to an online payment processor and that Client is not currently using (and, as long as Bank is providing the OBC service to Client, will not use) the services of any other financial institution to enroll in or otherwise obtain access to the online bill payment service of an online payment processor.

    c. Client agrees to complete, sign and give Bank or the applicable online payment processor all forms that are necessary to receive payments and remittance information for payments processed through an online payment processor's online bill payment service, including an ACH debit authorization form.

3. Remittance Files; Settlement; Reconcilement; Posting.

    a. Once Client has been enrolled as a biller in an online payment processor's online bill payment service, that online payment processor will send Bank remittance information regarding payments sent to Client through that online payment processor's online bill payment service. After Bank receives that remittance information from an online payment processor, Bank will reformat it in accordance with the file formatting requirements

Bank has agreed to with Client and create a file of such reformatted remittance information (each, a "remittance file"). Unless an earlier deadline for an online payment processor's online bill payment service is provided in the OBC reference materials or any guides, rules or other documentation (collectively, the "online payment processor's documentation") that governs participation in such online payment processor's online bill payment service, Bank will send each remittance file to Client no later than the first banking day after the day Bank receives the relevant remittance information from an online payment processor. Client may designate whether Bank sends remittance files to Client as a separate transmission or appended to another product's file.

b. Each online payment processor will be responsible for settling all payments sent to Client in each remittance file. The applicable online payment processor will do so by sending one or more ACH credit entries to the account Bank includes in Bank's implementation of OBC that has been identified as the settlement account for that online payment processor. All payments credited to a settlement account, or otherwise owed to Client, for payments sent to Client through an online payment processor's online bill payment service are subject to any rights that online payment processor may have to unwind transactions and exercise setoff under that online payment processor's documentation.

c. Client is responsible for reconciling the remittance information in each remittance file to the ACH credits Client receives from each online payment processor. If Client is unable to reconcile the two, Client must notify Bank of the inconsistencies by the end of the banking day on the day Client receives the ACH credit. If Client has notified Bank in the time required, Bank will use good faith efforts to attempt to resolve any such inconsistencies with the applicable online payment processor.

d. Client is responsible for posting each payment reflected in a remittance file to the correct customer account in Client's receivables system. Unless an earlier time for posting for an online payment processor's online bill payment service is provided in the OBC reference materials or that online payment processor's documentation, Client must electronically post each payment reflected in a remittance file to Client's receivables system so that such payment is posted to the correct customer account before Client's posting cut-off time on the calendar day immediately following the date Bank received the applicable remittance information from an online payment processor, as reflected by the date in the file header information (the "file header date"). If the immediately following calendar day is a holiday or weekend day, Client must post the payment on the next business day, and Client must also backdate the time the payment is shown to have been posted in Client's receivables system so that it reflects it was posted before Client's payment posting cut-off time on the calendar day immediately following the file header date.

4. Returns; Refusals; Reversals.

a. If Client is unable to determine from a remittance file the correct customer account to which a payment should be posted, then (unless a shorter period for an online payment processor's online bill payment service is provided in the OBC reference materials or that online payment processor's documentation) Client must complete Client's research of the payment and post it to the correct customer account within two banking days from the file header date of that remittance file. Client may not post the payment to a general ledger suspense account or otherwise hold the payment beyond that period while Client continues to research the payment. If Client has been unable to determine the correct customer account and post the payment within that period, then (unless a shorter period for an online payment processor's online bill payment service is provided in the OBC reference materials or that online payment processor's documentation) Client must request that Bank returns the payment and Bank must receive that request no later than 5:00 p.m. ET (the "returns deadline") on the second banking day after the file header date of that remittance file and, if required by the applicable online payment processor, Client must notify the applicable online payment processor directly by the time specified in such online payment processor's documentation. If a remittance file contains incorrect information, but Client is able to post the payment, then (unless a shorter period for an online payment processor's online bill payment service is provided in the OBC reference materials or that online payment processor's documentation) Client must give Bank a notice that describes what was incorrect in the remittance information no later than the returns deadline on the day that is two banking days after the file header date of that remittance file and, if required by the applicable online payment processor, Client must notify the applicable online payment processor directly by the time specified in such online payment processor's documentation.

b. Client may not refuse to accept a payment that one of Client's customers sends Client through an online payment processor's online bill payment service unless (i) the customer account data for that payment is incorrect or incomplete or (ii) Client has elected not to accept any payments from that customer. If Client is

not willing to accept any payments from a customer, then (unless a shorter period for an online payment processor's online bill payment service is provided in the OBC reference materials or that online payment processor's documentation) Client must request that Bank returns the payment no later than the returns deadline on the day that is two banking days after the file header date of the remittance file containing that payment information.

c. Some online payment processors offer "guaranteed payments". If an online payment processor does not offer guaranteed payments, originators can initiate reversals of payments previously made to Client through that online payment processor's online bill payment service. The online payment processor will then send an ACH debit entry to Client's settlement account for such reversals. Bank will not have any responsibility for any reversals processed through an online payment processor's online bill payment service or debits by an online payment processor to one of Client's accounts to reverse a payment.

5. Limitation of Liability; Disclaimer; Indemnity. In addition to any other limits on Bank's liability under the agreement and to the extent permitted by applicable law, Client agrees that Bank will not have any liability for any acts or omissions of an online payment processor (including, without limitation, (a) any error or delay in processing any payments or remittance information, including any error or delay in initiating any funds transfers to Client, (b) any breach of confidentiality of any information, including any of Client's or Client's customers' payment, account or personal information, (c) the inaccuracy of any remittance information, or (d) any reversals or other debits initiated against Client's account). In addition to any other indemnity obligation Client has under the agreement and to the extent permitted by applicable law, Client agrees to indemnify and hold Bank harmless from and against any claims, liabilities, losses, damages, costs and expenses (including, without limitations, attorneys' fees) arising from or related to (i) any amounts or other obligations Bank owes an online payment processor that are related in any way to Client's use of that online payment processor's online bill payment service, (ii) faulty or erroneous information or instructions Client gives Bank or an online payment processor, (iii) any of Client's errors or delays in posting a payment to Client's accounts receivable system, (iv) any breach of any of Client's other obligations under these OBC terms and conditions, or (v) any of Client's acts or omissions which result in a breach by Client or Bank of the terms of any online payment processor's documentation.

6. Online Payment Processor Documentation. Client's use of the OBC service is subject to the terms of each online payment processor's documentation. Client agrees to take all actions Bank or such processor deem necessary for both Client and Bank to be in compliance with each online payment processor's documentation. Client agrees that Bank is not obligated to take any action under these OBC terms and conditions that would cause Bank to breach the provisions of any online payment processor's documentation. Client agrees that none of Bank's obligations under any online payment processor's documentation create obligations for Bank under these OBC terms and conditions unless expressly set forth as Bank's obligations in these OBC terms and conditions.

Online Bill Presentment and Payment Service

1. Description of Online Bill Presentment and Payment Service. The Online Bill Presentment and Payment ("OBPP") service enables Client to electronically collect bill payments from Client's customers (each, a "payer") by initiating ACH debit entries against a payer's deposit account or by initiating charges against a payer's credit or debit card. These ACH debit entries and credit or debit card charges (which are generically referred to in these OBPP terms and conditions as "payments") are initiated in response to payment authorizations payers submit through the internet or give Client's authorized users over the telephone. Details regarding OBPP's functionality and requirements that Client must follow when using the OBPP service are provided in the OBPP reference materials.

2. Functioning of the OBPP Service. Each payment authorization that Client or a payer submits through the OBPP service will initiate a payment in accordance with these OBPP terms and conditions. Client will be the "originator" and Bank will act as the originating depository financial institution or "ODFI" for each ACH debit entry initiated. Similarly, Client will be the "merchant" for each credit or debit card charge initiated through the OBPP service. However, Bank does not act as the merchant bank processor or "acquirer" with respect to those credit or debit card charges. Instead, the OBPP service merely routes information for those credit or debit card charges to Client's third-party merchant bank processor, which will act as the acquirer for those credit or debit card charges. In order to initiate credit or debit card charges through the OBPP service Client must have entered into a merchant services agreement with a third-party merchant bank processor acceptable to Bank.

3. Origination and Processing of Payments.

a. Payment authorizations may be submitted through the OBPP service by (i) a payer through an internet website (the “biller website”) or (ii) an authorized user of Client through the biller website based on a verbal authorization a payer gives such user over the telephone. The biller website is provided by Bank as part of the OBPP service and is the website through which payments are made. Client must provide and maintain a secure link to the biller website on Client’s general website and is responsible for ensuring that this link takes a payer to the appropriate area within the biller website. Client is also responsible for providing data concerning each payer who uses this link. The link and the linking process, including the manner in which Client submits data about each payer to Bank, must also meet Bank’s encryption and security requirements.

b. Before a payer may submit a payment authorization through the OBPP service, that payer must be registered in the OBPP system. A payer may self-register directly through the biller website or may be registered as a payer through the biller website by an authorized user based on information the payer gives the user over the telephone. In addition, if the Single Sign-On option (defined below) is used, a payer who has registered on Client’s general website will be automatically registered in the OBPP system. The registration process must include a commercially reasonable fraudulent transaction detection system, a commercially reasonable methodology to establish a secure internet session, and commercially reasonable procedures to verify the identity of the payer. At Client’s option (as designated by Client during implementation of the service), payers may be allowed to give payment authorizations immediately following the registration process or may be prohibited from giving payment authorizations until Client has authorized them to do so.

c. The biller website will be formatted in accordance with the specifications Client provides to Bank. Client grants Bank the right and a license to use (i) Client’s name, trademarks, service marks, copyrights and logos and other textual information in connection with the biller website and (ii) Client’s data in connection with the OBPP service, in each case as contemplated by these OBPP terms and conditions. Once a payer has accessed the biller website, that payer may authorize Client to initiate a payment against the payer's deposit account or credit or debit card on the day that the authorization is submitted, each a “current payment,” or to initiate one or more payments on scheduled future dates, each a “scheduled payment.” Before a payer may submit a payment authorization through the biller website, that payer must accept terms regarding use of the biller website that, among other things, authorize Client as “biller” to initiate one or more payments against that payer’s deposit account or credit or debit card, as applicable, and permit Client and Bank to use the data provided by the payer to process those payments, including consent for that data to be sent outside of the United States. Given the types of potential payments, such terms of use must also comply with (i) the Nacha Operating Rules and Guidelines (“ACH Rules”) as they are in effect at the relevant time and (ii) the operating regulations and other requirements of the entity or association that issues or sponsors the applicable credit or debit card as they are in effect at the relevant time, or the "card rules". Bank may provide Client sample terms of use to assist Client in drafting terms regarding use of the biller website but, subject to the foregoing requirements, the final content of such terms is Client’s responsibility. Through the biller website, a payer may view scheduled payments set up in, and prior payments made through, the OBPP system and may, prior to the deadline for submitting payment authorizations set forth in the OBPP reference materials, also delete or modify scheduled payments set up in the OBPP system.

d. An authorized user of Client may also use the biller website to initiate payments against a payer's deposit account or credit or debit card based on a verbal authorization that payer gives an authorized user over the telephone, but only if (1) the payer initiated the telephone call or (2) Client has an existing business relationship with the payer as more fully described in the OBPP reference materials. Client is solely responsible for establishing the validation procedures an authorized user must follow to verify the identity of a payer and the authenticity of verbal payment or other authorizations a payer gives an authorized user over the telephone before those payment or other authorizations are submitted through the biller website. An authorized user must provide the information specified in the OBPP reference materials to the payer and obtain the payer's unambiguous verbal authorization prior to initiating a payment through the biller website. After an authorized user has initiated a payment through the biller website, the OBPP system sends the payer an email confirming that verbal authorization. Such email will be sent to the email address established at the payer’s registration and reflected in the OBPP system as part of the payer’s profile. This confirmation notice must comply with the ACH rules or the card rules, as applicable.

e. Each ACH debit entry initiated through the OBPP service must be originated using the applicable SEC (or Standard Entry Class) code, as described in the OBPP reference materials. The OBPP system will assign an SEC code based on information provided by the payer or an authorized user of Client when initiating the payment. ACH debits and credit or debit card charges processed through the OBPP service will be processed

and debited/charged to the payer's account according to the timelines set forth in the OBPP reference materials.

f. The OBPP service will use commercially reasonable procedures to verify that the routing number associated with any ACH debit entry initiated using the OBPP service is valid.

4. Administrative Functions. Client may use the biller website to perform certain administrative functions in connection with Client's use of the OBPP service. These functions may include registering a payer, administering and approving a payer's registration, viewing the status of payments, deleting payments, modifying scheduled payments, receiving certain notices, generating and viewing certain transaction reports, establishing authorized users and the limits on each authorized user's authority, and downloading and uploading certain files of data. Any modification or deletion of a payment must be completed prior to the deadline for submitting payment authorizations set forth in the OBPP reference materials. Reports are available to be viewed through the biller website for the number of days set forth in the OBPP reference materials. All files uploaded or downloaded through the biller website will be transmitted to Bank or to Client as specified during implementation of the OBPP service.

5. Representations and Warranties. Client agrees that (a) for each ACH debit entry Client initiates through the OBPP service, Client must comply with all obligations of an originator of , and Client makes all representations, warranties and agreements set forth in the ACH rules and the terms and conditions for the ACH Origination service related to, any ACH entries and (b) for each credit or debit card charge Client initiates through the OBPP service, Client must comply with all obligations of a merchant with respect to, and Client makes all representations, warranties and agreements set forth in the card rules related to, the credit or debit card charge. Client further represents that any payment or other authorization Client or a payer submits through the OBPP system has been authorized by the relevant payer. Client also represents and warrants to Bank that Bank's use of Client's (i) name, trademarks, service marks, copyrights and logos and other textual information in connection with the biller website and (ii) data in connection with the OBPP service, as contemplated by these OBPP terms and conditions, does not infringe or otherwise violate any intellectual property or other proprietary rights of any third party.

6. Designation of Primary Administrators. Client must designate a Primary Administrator for the OBPP service. The Primary Administrator will be set up with full user permissions with respect to the biller website, including the right to administer the rights and permissions of all other users, and to create additional administrators.

7. Security Procedures. The security procedures for the OBPP service are described below. Client agrees that use of the service constitutes acceptance of the below security procedures.

   a. Client's use of the biller website. Valid access credentials are required to log on to the biller website.

   b. Payers' use of the biller website. Except as otherwise described below for the Single Sign-On option, to access and use the biller website, a payer must log on to the biller website using that payer's valid access credentials. If a payer self-registers in the OBPP system through the biller website, the payer will select the payer's own user ID and password. If an authorized user registers a payer through the biller website, Client will designate the payer's user ID and a temporary password.

   c. Control totals. Immediately prior to transmitting the Nacha formatted file to Bank, the OBPP system will communicate the total dollar amount of the file (referred to as the "control total") to Bank through the biller website. Bank does not require that Client separately submit control totals in order to process files of ACH debit entries initiated through the OBPP service.

8. ACH Origination Service. The ACH Origination service terms and conditions are incorporated by reference herein, and all applicable provisions of such terms and conditions apply to ACH entries originated through the OBPP service. Terms that are defined in the ACH Origination terms and conditions have the same meanings when used in these OBPP terms and conditions. If there is any inconsistency on a particular issue between these OBPP terms and conditions and the ACH Origination terms and conditions, these OBPP terms and conditions will control.

9. Single Sign-On Option. Single Sign-On is an optional feature of the OBPP service that allows payers to access the biller site through Client's general website's authentication process without entering an additional user ID and password. Client's election to use the Single Sign-On feature will be designated during implementation. In order to use Single Sign-On, the authentication procedures and methodology used to establish a secure internet session employed by Client's general website must be commercially reasonable and must meet certain requirements set forth in the OBPP reference materials. Client must maintain records of the authentication of

each payer who logs in to Client's general website and accesses OBPP through Single Sign-On for a minimum of five (5) years from the date of login. Such records must evidence the authentication and identification of the payer and must include, at a minimum, the payer's user name, system name, session ID, date/time stamp, and payer's IP address. Client must provide copies of such records to Bank, in a format that is satisfactory to Bank, within five (5) business days of Bank's request. Additionally, Client will be required to obtain, install and manage, at Client's own expense, a valid X.509 certificate issued by a Certificate Authority as further described in the OBPP reference materials. Client must comply with all requirements and complete all required testing and all implementation and software development tasks as further described in the OBPP reference materials. If Bank determines, in Bank's sole discretion, that Client does not meet any of the requirements or are not otherwise eligible for Single Sign-On, Client will not be permitted to use this feature of the OBPP service. Under the Single Sign-On option, payer registration and authentication, including selection and reset of user IDs and passwords, will be Client's responsibility and will take place within Client's general website. If Client uses Single Sign-On, Client is responsible for the actions of any person who accesses the biller site and/or the OBPP system through Client's general website, including any unauthorized payments initiated by such person. In addition to any other indemnity obligation Client has under the agreement and to the extent permitted by applicable law, Client agrees to indemnify and hold Bank harmless from and against any claims, liabilities, losses, damages, costs and expenses (including, without limitation, attorneys' fees) arising from or related to any person's access to the biller site and/or the OBPP system through Client's general website, including but not limited to any losses resulting from the breach or failure of the security features of Client's general website or Client's failure to comply with any requirements for Single Sign-On contained in the agreement, including requirements set forth in the OBPP reference materials.

Online Courier Service

1. Description of Online Courier Service. The Online Courier ("OLC") service is an online information reporting service that provides various statements, alerts, and reports to Client via selected delivery channels, as designated during implementation. OLC may also be used to upload Positive Pay service files. Details regarding OLC's functionality and formatting and other technical requirements that Client must follow when using the OLC service are provided in the OLC reference materials.
2. Designation of Primary Administrator. In order to use OLC, Client must designate an OLC Primary Administrator by executing a Primary Administrator Designation Agreement.
3. Security Procedures. OLC users must use authorization codes to access the service. Authorization codes will be provided by an administrator.

Payables and Invoice Management Service

1. Description of Payables and Invoice Management Service. The Payables and Invoice Management ("PIM") service synchronizes with Client's accounting software to automate invoice processing and payment execution. Payments can be made via checks, Automated Clearing House ("ACH") entries, or commercial card. Details regarding the functionality of the PIM service and certain formatting and other technical requirements that Client must follow when using the PIM service are provided in the PIM reference materials. Client must designate a Primary Administrator for PIM within a Primary Administrator Designation agreement (or other similar agreement accepted by Bank).
2. Invoice Processing. Invoices are uploaded to the PIM application via the following methods a) invoices keyed into Client's accounting software will be loaded to PIM; b) Client can key invoice data into PIM; c) invoices can be uploaded to PIM; or d) invoices can be emailed to a designated mailbox. If Client selects the automated invoice capture option, invoice header or invoice header and line level invoice detail is captured electronically using optical character recognition (OCR). Client is responsible for reviewing invoice data for accuracy and making any required updates. Invoice images and/or data are routed to Client's designated users for approval.
3. Payment Processing and Initiation. Once an invoice has been approved, Client will be prompted to authorize and approve payments for processing based on the invoice. One approved by Client, data for payment entries ("Payment Data file") is delivered to Bank via the PIM service for processing, and Bank then initiates payments via check, ACH entry, or commercial card payment, to designated payees in accordance with Client's instructions contained in the Payment Data file. Client must submit Payment Data files to Bank by the applicable cut-off

deadline; otherwise, the Payment Data file may not be processed or there may be a delay in processing. Any payments made through PIM are subject to the applicable terms and condition of the payment type. Approved invoice and payment data is synched back to Client's accounting software.

Client is responsible for payment entries included in the Payment Data file that are authorized and approved for processing according to the terms herein, even if a payment entry is a duplicate of another payment entry or otherwise is submitted in error. Bank is under no obligation to determine if a Payment Data file or any payment entry is a duplicate of a previously submitted Payment Data file or payment entry.

4. Processing of Payments.

   a. For each payment entry submitted for processing, Bank will, according to Client's instructions, print and disburse a check in U.S. dollars, create and transmit an ACH credit entry, or initiate a commercial card payment. Each payment entry will be drawn on or settle to the applicable designated account. Client's use of each payment type within the PIM service is subject to Bank's approval and completion of any additional documentation or agreements relating to the payment type that may be required by Bank.

   b. For each payment entry to be paid by check, the check will be printed in accordance with the format specifications established between Client and Bank. Bank will disburse checks by first-class U.S. mail, with associated costs passed through to Client. Bank shall have no responsibility for any checks once delivered to the United States Postal Service.

   c. For each payment entry to be paid via ACH credit entry, Client will be the originator of the ACH entry Bank creates from Client's Payment Data file. The ACH Origination service terms and conditions are incorporated by reference herein, and all applicable provisions of such terms and conditions apply to ACH entries originated through the PIM service. Terms that are defined in the ACH Origination terms and conditions have the same meanings when used in these PIM terms and conditions.

   d. In order to include commercial card payables files in the Payment Data file, Bank must have agreed to provide Client a commercial card account and Bank's associated card program management solution. Client must execute a Commercial Card Agreement with Bank and any additional documentation Bank may require relating to the card program management solution (together, the "Commercial Card Agreements"). The Commercial Card Agreements are incorporated by reference herein, and all applicable provisions of the Commercial Card Agreements apply to commercial card payments transmitted through the PIM service.

   e. Remittance data included with Client's Payment Data file may be printed with the corresponding checks, made available at Bank's designated website for a registered payee, emailed to a registered payee or sent by separate mailing for ACH entries to the payee at the address provided by Client.

5. Cancellation Instructions. Bank has no obligation to comply with any request to cancel the processing of any of Payment Data file or payment entry, to amend any Payment Data file, to pull from disbursement a printed check, or cancel any ACH or commercial card payment created in accordance with Client's Payment Data file. As an accommodation to Client, however, Bank will use good faith efforts to comply with Client's request to cancel the processing of a Payment Data file or payment entry, or pull a printed check from disbursement, if Client's request complies with any applicable cancellation requirements and Bank receives the request at a time and in a manner providing Bank with a reasonable opportunity to act on the request. Bank is not liable if Bank is unable to honor Client's request to cancel the processing of any Payment Data file or payment entry. Client agrees to reimburse Bank for any expenses Bank may incur in attempting to honor any such requests. Note that for commercial card payments, any changes to payments (including cancellation) that have been submitted through the PIM service must be made by logging on to the card program management solution.

6. Security Procedures. Client agrees that use of the PIM service constitutes acceptance of the below security procedures.

   a. Access Credentials. Valid access credentials are required to log in to the PIM service and to approve invoices or payment entries within the service.

   b. Dual Approval. Approval of any payment entry for processing within the PIM service requires dual approval, which means that one authorized user with sufficient entitlements must approve the invoice upon which the payment entry is based, and a different authorized user with sufficient entitlements must approve the payment entry, in order for the payment entry to be released and processed. At Client's option, Client may require additional approvals (three or more users) for such transactions; additional approval requirements will be selected by an administrator.

c. Two-Factor Payment Verification. In order to approve a payment entry, an entitled user must enter a one-time security code in order for the payment entry to be released and processed.

d. Payee Access. Payee registration and valid access credentials are required for access to Bank's online remittance reporting feature or vendor enrollment feature. Client is responsible for providing registration instructions and initial access credentials to payees.

7. Creation of Issue File for Positive Pay, Account Reconciliation Plan, or Controlled Payment Reconciliation Services. Client may elect for the printed check information included in Payment Data file to be used by Bank to create a Positive Pay, Account Reconciliation Plan, or Controlled Payment Reconciliation service issue file on Client's behalf, to be used in connection with one of those services used by Client. By making this election, Client authorizes Bank to create an issue file on Client's behalf on each day on which checks are printed against any Truist account that is included in Client's setup for Positive Pay, Account Reconciliation Plan or Controlled Payment Reconciliation service. Client's use of the Positive Pay, Account Reconciliation Plan or Controlled Payment Reconciliation service is governed by the terms and conditions for each service.

8. Payee Access. Payees have access to several optional features of the PIM service through a designated website.

   a. Online Remittance Reporting Feature. Before a payee can access Bank's online remittance reporting feature, that payee must register in the designated website and agree to terms and conditions for use of the website. Through the website, registered payees may utilize the online remittance reporting feature to view and download documents and information in connection with payments, including remittance data and statements.

   b. Vendor Enrollment. Under the vendor enrollment feature, Bank collaborates with Client on outreach to Client's vendors to obtain vendors' election to receive electronic payments (ACH or commercial card) instead of checks. This election of the vendor (payee) is for Client's information and Bank has no duty to comply with Client's payee's election to receive payments by ACH or commercial card, but Client may choose to change the payment type of the payee by specifying the applicable payment type in Client's Payment Data file.

   c. PIM Vendor Services. Client or Client's payees may elect to obtain additional services directly from Bank's PIM service vendor, including, but not limited to, data download capabilities. Bank does not provide these additional services and such services are subject to the agreement solely between the vendor and Client, and vendor is not acting on behalf of Bank in providing such additional services to Client. Bank has no obligations or liabilities with respect to such additional services and is not responsible for any obligations or liabilities that may arise in the course of the vendor providing such additional services directly to Client or Client's payees.

Positive Pay, Payee Positive Pay, Check Block and Reverse Positive Pay

1. Description of Positive Pay, Payee Positive Pay, Check Block and Reverse Positive Pay Service. Positive Pay, Payee Positive Pay, Check Block and Reverse Positive Pay services allow Client to provide Bank instructions regarding payment or return of certain checks Client believes are fraudulent or not validly issued. Details regarding the functionality, formatting, and other technical requirements for these services are provided in the applicable reference materials.

2. Service Options. Client may select either Positive Pay, Payee Positive Pay, Check Block or Reverse Positive Pay. Each account enrolled in the respective service option is referred to herein as an "enrolled account."

   a. Positive Pay and Payee Positive Pay. Positive Pay and Payee Positive Pay services help Client detect unauthorized, counterfeit, altered or otherwise fraudulent checks on Client's enrolled account(s) by comparing issued check (and any voided check) information provided to Bank by Client against the checks that post to an enrolled account. Payee Positive Pay provides stronger protection against fraudulent checks by comparing payee names from Client's issued check file with the payee name on the check, in addition to the standard check number and account fields that are compared with the Positive Pay service. In order for the payee name verification process to function correctly, the payee name must be clearly displayed on Client's printed checks, and the payee name provided in the issued check file should exactly match the name printed on the check. The following terms apply to both Positive Pay and Payee Positive Pay service options.

      i. Presentment Processing. Positive Pay and Payee Positive Pay require Client to transmit an issue file to Bank on each day on which Client has issued any checks against an enrolled account. Bank must receive

that issue file by the deadline set forth in the reference materials and the file must contain the information set forth in the reference materials with respect to each check listed in the file. Client may send Bank a separate issue file for each enrolled account, or may send an aggregate issue file for all of Client's enrolled accounts. Once Bank has received Client's issue file, then Bank will compare the checks identified in that issue file with the information in Bank's systems regarding the checks (1) that have been presented to Bank through normal check clearing channels for payment against the enrolled account and that Bank has posted to the enrolled account, and (2) for which Bank has provisionally settled. Client authorizes Bank to finally settle the charges against the enrolled account, for each check that Bank reasonably determines to match the information in Client's issue file. Bank will notify Client of each presented check that is not included in the issue file or that reflects information that does not reasonably match the information in the issue file ("mismatched checks"). Client must instruct Bank to pay or return each mismatched check by the payment decision deadline set forth in the reference materials; such instruction is a "decision."

ii. Mismatched Checks. Client may elect one of two ways for Bank to handle mismatched checks if Client fails to provide a pay or return decision by the payment decision deadline for Positive Pay or Payee Positive Pay. Bank will process and pay all exceptions according to Client's default settings.

1) Return Default. Under the "return default" option, Client authorizes Bank to return each mismatched check as unpaid, unless Bank receives an instruction from Client to pay it before the payment decision deadline. Even if Client selects a return default option, Bank may post, finally settle and charge against the enrolled account a mismatched check the Client hasn't decisioned (A) as otherwise provided below, for mismatched checks presented over the counter in one of Bank's branches and (B) mismatched checks that Bank believes in good faith result solely from encoding errors.

2) Pay Default. Under the "pay default" option, Client authorizes Bank to finally settle each mismatched check and charge it against the enrolled account unless Bank receives an instruction from Client to return it before the payment decision deadline.

Client may opt not to provide information in Client's issue file for (i) one or more check attributes that Positive Pay and Payee Positive Pay are capable of matching or (ii) certain items in situations where Client deems it necessary to avoid mismatch situations, such as instances where Client believes an item has already been legitimately paid. Client acknowledges that not providing information to allow for matching of all available check attributes or not including information for all items increases the risk that a fraudulent check will not be detected as a mismatched check. If Client fails to provide information in Client's issue file regarding all available check attributes that the service is capable of matching, or Client fails to provide an issue record for a check at all for any reason, then Bank will not be liable for paying any check that is fraudulent with respect to the attributes for which Client failed to provide the Bank information, or for paying an item for which the Client chose to provide no issue record, provided Bank otherwise satisfied its duty of care with respect to the other aspects of the Positive Pay or Payee Positive Pay service in processing that check.

iii. Teller Access Service. As part of the Positive Pay or Payee Positive Pay service, Bank will also make Client's issue files available to Bank's branches to assist Bank's tellers in cashing checks ("teller access"). If a check presented for payment against an enrolled account over the counter in one of Bank's branches (1) is presented before Bank has received and processed an issue file for such check, (2) is a mismatched check, or (3) is otherwise identified by Bank as suspect, then Bank will not pay the check and will refer the presenter back to Client. If a check that matches the issue file information in check number and amount is presented to Bank for cashing over the teller line and the payee name, if provided by Client, does not match the name viewed on the check by the teller, then Bank may in its discretion decide to pay the check, or to not pay the check and refer the presenter back to Client.

b. Check Block. If the Check Block option is selected, all incoming check entries to an enrolled account will be blocked.

c. Reverse Positive Pay. Reverse Positive Pay helps Client detect unauthorized, counterfeit, altered or otherwise fraudulent checks on Client's enrolled account(s), by providing Client with information on checks (i) that have been presented to Bank through normal check clearing channels for payment against the enrolled account, (ii) that Bank has posted to the enrolled account, and (iii) for which Bank has provisionally settled. Client must compare that information with Client's own information for checks that have been issued from the enrolled account. If Client determines that a check included in the information Bank provides should

be returned, then Client must notify Bank by the payment decision deadline set forth in the Reverse Positive Pay reference materials. If Bank does not receive a notice from Client to return a check by the payment decision deadline, then Client authorizes Bank to finally settle and charge that check against the enrolled account. Teller access is not available for Reverse Positive Pay and checks submitted through the teller line will not be available for pay or return decisions by Client. As a result, Client agrees that if Client selects Reverse Positive Pay, then Bank will not have any liability for paying or returning any check that is presented over the counter in one of Bank's branches, whether or not such check bears a forged or unauthorized signature or is counterfeit, altered or otherwise fraudulent or is not validly issued, so long as Bank otherwise processes that check in accordance with Bank's standard check cashing procedures. In addition, Client acknowledges that if Client selects Reverse Positive Pay, Bank may not provide Client information for all check attributes (such as the payee name) that the Positive Pay or Payee Positive Pay option is capable of matching.

3. Transmission of Information. Bank will transmit information regarding mismatched checks (for Positive Pay and Payee Positive Pay) and information regarding checks that have posted to an enrolled account (for Reverse Positive Pay) to Client by using one of Bank's online services designated in the reference materials. Client must transmit the issue files (for Positive Pay and Payee Positive Pay) and/or Client's pay or return decisions to Bank by using one of Bank's online services as designated in the reference materials. Client's issue files and pay or return decisions must be in a format acceptable to Bank. In the event the applicable online service is not available, then a mutually agreed-upon alternative delivery method and process will be used to provide the relevant information to Client and for Client to provide the issue files and/or pay or return decisions to Bank. Client will designate one or more operational contacts for Positive Pay, Payee Positive Pay or Reverse Positive Pay. Bank may, in its sole discretion, contact these operational contacts in the event Bank has questions about Client's issue file, the relevant online service is not available, to set up an alternative delivery method, or for other operational issues with the service options. These operational contacts are authorized to instruct Bank to pay or return any mismatched check (for Positive Pay or Payee Positive Pay) or any check that has posted to Client's account (for Reverse Positive Pay), in the event that Bank, in its sole discretion, contacts an operational contact regarding such check.

4. Limits on Bank's Liability. Client acknowledges that Bank will rely on information and instructions Client gives Bank in providing Positive Pay, Payee Positive Pay or Reverse Positive Pay service and that Bank is not required to inspect any attribute of a check (other than those included in the relevant issue file) that is processed through these service options. Bank will not have any liability for paying or returning any check in accordance with these terms and conditions, including any check that (i) bears a forged or unauthorized signature or is counterfeit or otherwise not validly issued or (ii) is altered or otherwise fraudulent with respect to an attribute that the Positive Pay, Payee Positive Pay or Reverse Positive Pay service is not designed to match. Client will be precluded from asserting any claims against Bank with respect to losses for any fraudulent check that was paid or returned in accordance with these terms and conditions. Client also acknowledges that Positive Pay, Payee Positive Pay and Reverse Positive Pay services are not a substitute for Bank's stop payment service, or a means to reject checks that were validly issued but for which there exists a dispute with respect to the underlying transaction, and Client agrees not to report an item as "void" if Client has released the item for payment.

Real-Time Payments Service

1. Description of Real-Time Payments Service. Real-Time Payments Service ("RTP") allows Client to send or receive messages through a Real-Time Transfer System ("RT System"). Client sends and receives messages through an online banking service provided by Bank, and the messages may or may not be associated with a particular payment, initiate a payment, or send requests for payments in accordance with these terms ("RT Terms").

   Messages are sent or received by a natural person, business, government, nonprofit organization, or other entity ("Person") through a financial institution or third party service provider participating in the RT System ("Service Participant"). Client must be approved by Bank before using RTP to send requests for payment to Persons. Client agrees that any use of RTP, including but not limited to receiving or sending messages or payments, failure to return payments, or error resolution, will be in accordance with the Real-Time Payments Operating Rules ("Rules"), located at www.theclearinghouse.org. The Rules, are hereby incorporated by reference into the RT Terms.

2. Important Disclosures regarding RTP.

a. Payments through RTP are irrevocable and cannot be reversed. Client is responsible for verifying the correct Receiver Addressing Information of Payment Messages as such terms are defined herein.

b. Bank will rely solely on the bank routing number and account number, in a received payment or message regardless of whether the name of the Person in the payment or message matches the name associated with the account number in the Bank's records.

c. Client should only use RTP to make payments to Persons known to the Client. If a Person contacts the Client outside of RTP and asks for payment, then Client should verify the identity, legitimacy and contact information of the requestor and the amount of the payment prior to submitting a RTP Transfer Request, as such term is defined below. Client may lose the full amount of Client's payment if Client:

   i. sends payment to a Person whose identity is not accurately verified,

   ii. provides improper payment routing information, or

   iii. fails to verify the legitimacy of a payment.

d. Client acknowledges and agrees that Bank has no obligation to verify the accuracy or completeness of the information that Client provides in order to send a payment.

3. Security procedures. The security procedures for RTP are the security procedures applicable to external payments initiated within the Bank's online banking service including but not limited to authorization codes required to log in to the online banking service, dual approval requirements, and token authentication requirements. Client agrees that use of RTP constitutes acceptance of these security procedures.

4. Messages. Client initiates RTP messages by submitting a request ("RTP Transfer Request") through Bank's online banking service, or such other access channels as made available by Bank from time to time and in accordance with applicable terms for such access channels. The Person sending a message through RTP is a "Sender." When Client submits a RTP Transfer Request as a Sender, Client will be required to provide information about the Person to receive the message including but not limited to a routing number to identify a Service Participant and as more particularly contained in the reference materials. The Person receiving the message is the "Receiver," and the Receiver's information is collectively the "Receiver Addressing Information." By submitting a RTP Transfer Request, Client represents and warrants that such RTP Transfer Request and any funds transfer associated with it complies with these RT Terms. Bank will submit Client's message to the RT System and the RT System will deliver Client's message to the Service Participant in accordance with these RT Terms and as identified through the Receiver Addressing Information provided by Client. The Service Participant will deliver the message to the account identified in the Receiver Addressing Information.

5. Transaction Limits. Transaction limits may be established and adjusted, as well as daily, weekly, or monthly limits on amounts sent and received through RTP for such period ("Transaction Limits"). Any attempted Payment Message that exceeds a respective Transaction Limit may fail. Bank will provide applicable limits upon client request. It is Client's responsibility to notify any Person of the Transaction Limits, if such Person has a need to know the limits.

6. Sending Funds. Client, as a Sender, may use a RTP Transfer Request to initiate a funds transfer to a Receiver ("Payment Message"). In addition to the Receiver Addressing Information, a Payment Message will require the amount of funds ("PM Amount") the Sender directs the Bank, as the "Sending Participant," to transfer to a Receiver. The Payment Message will be delivered to a Service Participant as identified through routing and account information in the Receiver Addressing Information (such Service Participant is a "Receiving Participant"). The Receiving Participant does not verify any Receiver Addressing Information in the Receiving Participant's records matches the account number in the Receiver Addressing information.

   By submitting a Payment Message, Client irrevocably and unconditionally authorizes Bank to initiate a payment for the PM Amount using the Receiver Addressing Information, and immediately deduct the PM Amount plus any fees payable by Client to Bank in conjunction with the applicable Payment Message from Client's account. For Payment Messages, **EXCEPT AS OTHERWISE REQUIRED BY STATE OR FEDERAL LAW, BANK'S SOLE OBLIGATION SHALL BE TO INITIATE A PAYMENT BY SENDING A PAYMENT MESSAGE THROUGH RTP IN THE PM AMOUNT INDICATED BY CLIENT USING THE RECEIVER ADDRESSING INFORMATION PROVIDED BY CLIENT. EXCEPT AS OTHERWISE REQUIRED BY STATE OR FEDERAL LAW, BANK SHALL HAVE NO LIABILITY TO CLIENT WITH RESPECT TO ANY LOSS THAT CLIENT EXPERIENCES DUE TO THE INACCURACY OR INCOMPLETENESS OF SUCH RECEIVER ADDRESSING INFORMATION, THE FAILURE OF SUCH INFORMATION TO BE ASSOCIATED WITH CLIENT'S INTENDED RECEIVER, OR**

CLIENT'S FAILURE TO CORRECTLY ENTER THE RECEIVER ADDRESSING INFORMATION OR THE PAYMENT MESSAGE AMOUNT.

No buyer protection is provided with respect to RTP and Client cannot reverse or dispute a Payment Message on the basis that Client is dissatisfied with the goods or services provided in association with the Payment Message i) because goods are not delivered or services are not performed, whether at all or in a timely manner; or ii) because Client wishes to return purchased goods or cancel a pre-paid service.

7. Requesting Return of Funds. RTP permits Client to submit a RT Transfer Request for a Receiver to return funds from a previous Payment Message sent by Client ("Return Request"), but the Receiver is not obligated to return the funds. This includes circumstances in which the incorrect amount of funds was transferred because Client entered the incorrect PM Amount, or funds were sent to someone other than Client's intended Receiver because Client incorrectly entered the Receiver Addressing Information or the Receiver Addressing Information entered by Client was associated with someone other than Client's intended Receiver. If Client wishes to send a Return Request, Client must notify Bank at 800-774-8179. Bank's sole obligation is to transmit the Return Request through RTP to the Receiving Participant for such Payment Message. Bank makes no representation that funds will be returned in whole or in part, and Bank shall have no obligation to make any effort to recover such funds beyond the transmission of the Return Request. Client agrees Bank will not be liable for failure of Receiver to return funds or any deficiency in amounts returned to, or recovered by, Bank.

   Any dispute between Client and a Receiver must be resolved directly between Client and the Receiver. **Bank has no responsibility for, and shall not be liable to Client in connection with, any dispute between Client and a Receiver.**

8. Availability of Funds. In accordance with the Rules and Failed Message section below, Funds transferred through RTP will be credited to the Receiver's account by the Receiving Provider immediately upon completion of the RTP Transfer Request and will be available for withdrawal by the Receiver immediately. Funds are immediately available 24 hours per day, 7 days per week, including weekends and state and federal holidays. RTP Transfer Requests are typically completed within 30 seconds of transmission of the RTP Transfer Request by the Sender, unless the Payment Message fails or is delayed as described below.

9. Receiving Payments. Client may receive a Payment Message through RTP as a Receiver if a Sender sends a Payment Message to Client. Client is not obligated to accept a payment that is sent to Client as a Receiver through RTP. If Client wishes to reject a payment sent to Client through RTP, Client must contact Bank at 800-774- 8179.

   A Sender may send Client, as Receiver, a Return Request through RTP. If Bank receives a return request, then Bank will contact Client.

10. Requests for Payment. Client may not issue RTP Transfer Requests to submit requests for payment unless Client has been approved by Bank to do so. If Client wishes to submit RTP Transfer Requests, as a Sender, requesting payments from Receivers ("Request Message"), please contact Bank at 800-774-8179.

11. Requesting Messages. If Client has been approved to submit Request Messages, the following Terms apply:

    a. Client may only submit a Request Message to Persons who (i) are known to Client and (ii) reasonably expect to receive a request for payment from Client;

    b. by submitting a Request Message, Client represents and warrants that the request is not for a Prohibited Payment (as defined below) and is not fraudulent, abusive, or unlawful;

    c. Client acknowledges and agrees that Bank does not warrant that the Request Message Receiver will send payment in response to, or otherwise accept, Client's Request Message; and

    d. any dispute between Client and the Receiver of a Request Message must be resolved directly between Client and the Receiver. **Bank has no responsibility for and shall not be liable to Client in connection with any dispute between Client and a Receiver regarding the Request Message and any related Payment Message.**

12. Failed or Delayed Payment Message. Any Payment Message may fail or be delayed if:

    a. any Service Participant suspects or determines that the Payment Message does not comply with these RT Terms or Receiving Institution's terms for RTP;

    b. the Receiver rejects the Payment Message or has declined to receive Payment Messages or Request Messages;

c. the RTP Transfer Request exceeds a Transaction Limit for a transaction or period;

d. the Sender's or Receiver's account at the respective Service Participant is closed, invalid, ineligible to receive Payment Messages or Request Messages, or is being monitored for suspected fraudulent or other illegal activity;

e. any Service Participant otherwise declines to process the Payment Message for risk-management, legal, or regulatory reasons; or

f. any component or RTP or Real-Time Transfer System is unavailable.

If Client is the Sender, Bank will notify Client if a Payment Message fails. Client is responsible for communicating to the Receiver that the Payment Message has failed.

13. Reporting. If a RTP Transfer Request requesting a payment form Client does not relate to a payment Client was expecting to make to the Sender, Client should notify Bank immediately at 800-774-8179.

14. Prohibited Payments. Client agrees that it shall not use RTP to send or receive any of the following types of payments (a "Prohibited Payment"):

a. payments that violate any local, state, or federal law or regulation;

b. payments to accounts domiciled outside the United States;

c. payments transmitted solely for the purpose of determining whether the Receiver Addressing Information is valid (a "Test Payment"), provided Client may conduct a Test Payment if Client has a bona fide need to do so in order to determine the validity of Receiver Addressing Information provided to Client by a Receiver that wishes to receive a payment from Client; or

d. any other payment that the Bank may deem as prohibited, to which the Bank will provide notice to the Client.

Client acknowledges that Client is permitted to use RTP solely for the purpose of sending or receiving messages (i) on Client's own behalf or (ii) on behalf of Persons that are residents of or domiciled in the United States. If Client sends or receives payments on behalf of another Person, then Client must comply with all applicable laws and regulations in conjunction with such payments, including all regulations of the Office of Foreign Assets Control. Client acknowledges that any payment that violates the foregoing restrictions is a Prohibited Payment.

15. Transaction Errors; Unauthorized Transactions; Lost or Stolen Credentials. If Client believes that an erroneous or unauthorized payment has been made through RTP using Client's account or that Client's account credentials, Client should contact Bank immediately at 800-774-8179.

Remote Deposit Capture Service

1. Description of Remote Deposit Capture Service. The Remote Deposit Capture ("RDC") service and the internet-based RDC system allow Client to capture an electronic image of an original physical paper check and an image of associated information describing that check including optical character recognition (OCR) remittance coupons and transmit the image of the check to Bank for deposit to Client's account. The RDC service also provides access to, and the ability to export and print, deposited check images and remittance coupon images as well as reports regarding Client's use of the RDC service. Further details regarding RDC's functionality and formatting and other technical requirements that Client must follow when using the RDC service are provided in the RDC reference materials. The RDC service may not be used outside of the United States, U.S. territories, U.S. military bases or U.S. embassies and files may not be transmitted from outside the United States unless transmitted from a U.S. territory, military base or embassy. The RDC Service may not be used to deposit ineligible items as described in the RDC reference materials.

2. Required Hardware and Software. Before Client can use the RDC service, Client must have a computer capable of internet access, a scanner of a model approved by Bank, and the related software needed to capture electronic images of checks, associated information and remittance data. Equipment upgrades or replacements may be required from time to time, and it is the responsibility of Client to upgrade or replace scanner(s) as needed. When Client acquires a scanner from a third party vendor Client agrees that all warranty obligations and contracts are between Client and the vendor, and Bank does not have any responsibility or liability for the performance of the vendor, the delivery of the scanner or any aspect of the operation, use or maintenance of the scanner. At Client's request, Bank may provide Client's contact information and information related to Client's desired scanner to a

third party vendor, in order to facilitate communication between the vendor and Client regarding Client's scanner acquisition or rental. Client agrees that Bank is only providing this information to the third party vendor as an accommodation to Client to facilitate Client's potential acquisition or rental of a scanner and that Bank does not have any responsibility or liability for the performance of the vendor or the delivery of the scanner(s) or any aspect of the operation, use or maintenance of the scanner(s).

3. Primary Administrator. Client must designate a Primary Administrator of the RDC service who can establish additional RDC users and administrators.

4. Use of the RDC Service. A user of the RDC service must log on to the RDC system using valid credentials. The user will be required to provide a control total for each deposit, consisting of the total dollar amount of all checks included in the deposit. Images of checks submitted for deposit must meet the eligibility and image quality standards set forth in the RDC reference materials and in these RDC terms and conditions. All such standards are referred to as the "RDC standards." If the RDC system determines an image does not satisfy the RDC standards, the RDC system will reject the nonconforming image and ask the user to either a.) rescan the check, b.) manually provide or verify information or, c.) for certain types of limited image quality failures, confirm the user's election to submit the image or associated information as captured. **Please note that the option for the user to elect to submit an image as captured in the RDC system in certain limited situations does not relieve Client of the representations and warranties Client makes with respect to each image and associated information Client transmits to Bank.** Only users with approval permission can submit the deposit to Bank for processing. Once a deposit has been submitted, it may not be cancelled. Once Bank has received a deposit Bank will process the deposit file per Bank's normal check processing channels.

5. Dual Approval. Dual approval is an optional security feature of the RDC service. If the dual approval option is selected, one user must scan the check images and then a second user with approval permissions must release and send the check image file to Bank. **Bank highly recommends that Clients use the dual approval option.**

6. Posting File. If Client elects to receive an accounts receivable posting file as a part of this service, Bank will deliver the file to Client in the format and via the method and schedule agreed upon with Bank.

7. Deposit Credit and Alternative Deposit Methods. Bank must receive Client's deposit by the daily deadline set forth in the RDC reference materials in order for Client to receive credit for that deposit on that business day. Deposits received after the deadline or a non-business day will be considered deposited on the next business day. Bank is not liable for any delays or errors in transmission of the images or associated information. If the RDC service is not available, Client must make Client's deposits by another method, such as an in-person deposit at one of Bank's branches, at an ATM or a deposit by mail. If Client must make a deposit by other means due to RDC service being unavailable, Client should deposit only checks and should retain in Client's possession the other documents Client would normally scan with an RDC deposit.

8. Funds Availability. Bank will make funds for each substitute check or electronic item that Bank processes for deposit to Client's account available to Client under the same schedule that would have applied if Client had deposited the original paper check to Client's account.

9. Returns and Rejected Images. If Bank determines an image or associated information is not in a satisfactory form or is a duplicate, Bank may reject the nonconforming image or duplicate item and provide any associated debit adjustment and/or debit advice. Bank will send Client all check images which fail to meet collecting bank quality standards. If an image is rejected for failing to meet the RDC standards or the collecting bank quality standards, Client must take corrective action to either recapture the image and associated information and submit it in a new RDC file transmission or submit the original check for deposit.

10. Original Checks and Captured Images. Client agrees to use commercially reasonable policies and procedures, and to comply with any requirements in the RDC reference materials, to safeguard the original physical paper checks, images of the checks and associated information in Client's possession both before and after Client has transmitted images of such items to Bank, and to endorse or mark paper checks to indicate they have been transmitted for deposit. Client also agrees to make all such items available to Bank promptly upon Bank's request. Client also agrees to establish reasonable retention and destruction schedules in accordance with any applicable requirements within the RDC reference materials.

11. Client's Representations and Warranties. Client represents, warrants and agrees that Client will not:

    a. capture or transmit more than one image of any original check;

    b. negotiate, deposit, or otherwise transfer any original check to Bank or to any other person or entity after Client has captured an image of it;

c. transmit an image of any original check to Bank that Client has previously transmitted or given to any other person or entity;

d. transmit an image of any original check to any other person or entity after Client has transmitted it to Bank;

e. transmit an image of any original check if that check has been used as a source document for the initiation of an ACH or other electronic debit; or

f. use any original check as a source document for the initiation of an ACH or other electronic debit after Client has transmitted an image of (or associated information regarding) that check to Bank.

Client also makes all of the representations and warranties to Bank with respect to each check image that Client transmits to Bank that Client would have made under the Uniform Commercial Code (UCC) if Client had deposited the original physical paper check into Client's account.

In addition, Client represents and warrants to Bank with respect to each captured check image and associated information Client transmits to Bank that:

a. the image and associated information (i) accurately represent all of the information on the front and back of the original physical paper check at the time it was received by Client and at the time the image and associated information were captured; and (ii) are otherwise sufficient for Bank to satisfy its obligations as the truncating and reconverting bank; and

b. no person or entity will receive a transfer, presentment or return of, or otherwise be charged for, (i) the original check, (ii) an electronic item or substitute check other than the one that Bank creates from the image and associated information, or (iii) a paper or electronic representation of the original check or of a substitute check other than the one that Bank creates from the image and associated information, such that the person or entity will be asked to make a payment based on a check that it has already paid.

12. Duty of Cooperation, Document Production, Audit. Client agrees that Client shall make original and imaged documents available to Bank to facilitate investigations related to unusual transactions or poor image quality transmissions, or to resolve disputes. Client further agrees that Bank, at Bank's option, upon prior notice, may perform periodic audits of Client's processes related to use or proposed use of the RDC service including Client's information technology, security and internal control infrastructure related to Client's use of the RDC service. Client agrees that Bank has the right to mandate specific internal controls at any of Client's locations that use the RDC service where Bank deems such actions necessary to protect the security and integrity of the RDC service or if required by law, and that Bank may terminate the service if Client refuses to implement such controls.

13. Client's Indemnification Obligations. In addition to any other obligation Client has to indemnify Bank, Client agrees to defend, indemnify, protect and hold Bank, Bank's affiliates, Bank's vendors and Bank's respective officers, directors, employees, attorneys, agents, and representatives harmless from and against any and all liabilities, claims, damages, losses, demands, fines (including those imposed by any Federal Reserve Bank, clearing house or funds transfer system), judgments, disputes, costs, charges and expenses (including litigation expenses, other costs of investigation or defense and reasonable attorneys' fees) which relate in any way to (a) the use of the RDC system or RDC service to capture an image of a remotely created check, (b) Client's use of the RDC system or the RDC service in a manner other than as expressly provided in these RDC terms and conditions or (c) the receipt by any person or entity of (i) an electronic item, (ii) a substitute check or (iii) a paper or electronic representation of the original check or the substitute check that Bank creates from a captured check image and associated information that Client transmit to Bank, instead of the original check.

14. Termination. Upon termination of the RDC service by either Client or Bank, Client shall be solely responsible for complying with any terms or contracts relating to rental of a scanner, and for paying any early termination fees that may apply to Client's rental or acquisition of a scanner.

Sub-Accounting Service

1. Description of Sub-Accounting Service. Sub-Accounting Services provides the ability to maintain separate information within one master demand deposit account for virtual sub-accounts containing funds owned by individual entities / customers. Using the Sub-Accounting Services web portal, Client can (a) set up, manage and close virtual sub-accounts under a master account, (b) allocate transactions to virtual sub-accounts, and (c) view and download reports. Details regarding the web portal's functionality, creation of users and additional administrators, adding or deleting sub-accounts, and certain formatting and other technical requirements for Sub-

Accounting Services are provided in the current versions of the Sub-Accounting Services reference materials which include a user manual for the web portal.

2. User Administration. Client must identify a User Administrator for Sub-Accounting Services. This User Administrator will be reflected on a Treasury Request Confirmation, and will have the ability to (a) create and establish entitlements for users, (b) reset user passwords, and (c) create additional administrators with the appropriate level of entitlements, up to and including those of the User Administrator. To change the User Administrator, an Authorized Individual must contact Bank. The User Administrator change will be reflected on a Treasury Request Confirmation.

3. Deposits and Withdrawals. Funds may be deposited into and withdrawn from the master account. No deposits or withdrawals can be transacted directly to or from a sub-account. Within the web portal, entitled users can virtually allocate funds to or from the applicable sub-account and view reports. **Except as explicitly provided in these Sub-Accounting Services terms and Conditions, Client is responsible for all sub-account allocation and administration.** Withdrawals from the master account may be made by any means made available by Bank. Following a withdrawal from the master account Client must indicate one or more sub-accounts from which the funds are to be debited. No third party, including any beneficial owner of a sub-account, shall have the right to exercise any control over or provide instructions to Bank regarding Sub-Accounting Services or any master account or sub-account.

4. Allocation Rules and Interest Allocation. At the time of service implementation, Client can specify rules for automatic allocation of funds to sub-accounts. An Authorized Individual can also request or modify automatic allocation rules by contacting Bank. For interest bearing master accounts, Client can request an automatic interest allocation at the sub-account level based on the pro rata share of the master account's monthly average balance. Interest allocation occurs at the end of the month based on the total amount of interest earned by the master account. Client can request automatic interest allocation at the time of service implementation. In addition, an Authorized Individual can request or revoke automatic interest allocation at any time by contacting Bank.

5. Addition and Deletion of Accounts Associated with the Sub-Accounting Services. To add or completely delete a master account, an Authorized Individual must contact Bank. Sub-accounts can be added or deleted by any entitled user within the web portal.

6. Responsibility for Compliance. In using Sub-Accounting Services, Client acts as the fiduciary for the beneficial owners of funds held in sub-accounts, and Client is solely responsible for the management and disbursement of all funds held in the master account, the actions of all users of Sub-Accounting Services, access to information regarding the accounts through the service, timely allocations to and from sub-accounts (including any applicable interest) and compliance with any laws, regulations, tax reporting and other requirements or agreements applicable to such funds. Client acknowledges that Sub-Accounting Services is not designed to comply with the requirements of any state's law that may govern funds deposited in such sub-account structures, or to satisfy Client's obligations with respect to the beneficial owner of funds in any sub-account, including any obligation under applicable law or regulation to pay any prescribed interest on the principal. Bank is not acting as escrow agent, trustee or in any other fiduciary capacity with respect to Sub-Accounting Services, any master account or any sub-accounts and undertakes no duty to monitor usage of Sub-Accounting Services or the actions of any user. Sub-Accounting Services is not designed as a system of record for establishing pass-through of FDIC insurance coverage for the virtual sub-accounts; therefore, Client is responsible for maintaining any records necessary to comply with FDIC regulations regarding eligibility for pass-through FDIC insurance. Client should consult with tax and legal advisors regarding all legal, tax, or other liability or regulatory issues with respect to use of Sub-Accounting Services.

7. Tax Reporting. Bank will provide required tax information reporting for each master account. At Client's request, Bank will provide tax information reporting for each sub-account by mail, provided Client has supplied Bank with necessary tax documents (IRS Form W-9 or W-8) for such sub-account. Client is responsible for the accuracy of all balances reported in the sub-accounts, interest allocation and tax reporting related to such interest allocations, as well as the accuracy of the necessary tax documents Client obtains from its customers.

SWIFT for Corporates Service

1. Description of SWIFT for Corporates Service. The SWIFT for Corporates service ("SWIFT") allows Client (as a direct participant, a SCORE member, or via an initiating party) to exchange SWIFT messages with Bank through the SWIFT network. Bank may provide certain details regarding formatting and technical requirements to Client

within SWIFT service reference. The SWIFT service supports the following FileAct and FIN messages and file types:

a. FileAct Services – Secure File Transfer Services.

BAI2
EDI 822
EDI 820
Bulk Payment Files
ACH
Positive Pay
ISO PAIN.001 – Payments (Wire, ACH, Check)
ISO PAIN.002 – Level 1-3 Acknowledgements
CAMT.052 – Current Day Reporting
CAMT.053 – Previous Day Reporting

b. FIN Services – Core Messaging & Information Reporting Services.

MT101 – Request for Transfer
MT103
MT900 – Debit Confirmation
MT910 – Credit Confirmation
MT940 – Customer Statement Message
MT942 – Current Day
MT950 – Statement Message

2. Definitions. The following terms have the specified meanings for purpose of these SWIFT terms and conditions:

a. "Authorized SWIFT participant" means a person who is duly bound as a party to a SWIFT agreement allowing access to SWIFT and meets all eligibility criteria specified or referred to in that SWIFT agreement or the SWIFT documentation; provided, for the avoidance of doubt, that Client will continue to be an authorized SWIFT participant despite no longer satisfying such eligibility criteria during any period(s) specified in such SWIFT agreement as the period(s) (if any) given to Client to migrate to an alternative solution.

b. "Banking services" means the banking and other services (including treasury management services and wire transfer services) Bank provides Client in relation to which SWIFT messages are exchanged by way of the SWIFT messaging services that are identified in Client's SWIFT service documentation.

c. "Banking services agreement" means, with respect to any banking service, the agreement governing Client's use of such banking service. Without limiting the generality of the foregoing, the banking services agreement with respect to any of Bank's treasury management services addressed in this Agreement means this Agreement including all applicable terms of such treasury management services, and Bank's Wire Agreement.

d. "Wire Agreement" means, Bank's Wire Agreement (which is incorporated into this Agreement).

e. "Information" means the content of any SWIFT message Bank sends Client by way of the SWIFT messaging services including any account status or other information.

f. "Initiating party" means a third party designated by Client and acting on behalf of Client to send or receive SWIFT messages. To the extent Client designates any initiating party as part of Client's SWIFT service documentation, SWIFT messages received by Bank from such initiating party shall be deemed to be received from Client, and SWIFT messages sent by Bank to such initiating party shall be deemed to be sent to Client.

g. "Instruction" means the content of any SWIFT message Bank receives from Client by way of the SWIFT messaging services, including any actual or purported advice, request, instruction or communication, whether received directly from Client or from an initiating party.

h. "Operating account" means a bank account Client maintain(s) with Bank that is identified in Client's SWIFT service documentation.

i. "SCORE" means the standardized corporate environment service set up and administered by SWIFT.

j. "SWIFT" means S.W.I.F.T. SCRL, a Belgian limited liability co-operative society of Avenue Adele 1, B-1310 La Hulpe, Belgium.

k. "SWIFT agreement" means any then current agreement Bank or Client has with SWIFT in relation to the use of the SWIFT messaging services.

l. "SWIFT documentation" means the SWIFT terms, conditions, guides and procedures applicable to the SWIFT messaging services, to SCORE or to the sending and receiving of SWIFT messages within SCORE, as incorporated into Client's SWIFT agreement or that Bank or SWIFT notifies Client of from time to time.

m. "SWIFT message" means an electronic communication, message or file sent or appearing to have been sent using the SWIFT messaging services.

n. "SWIFT messaging services" means SWIFT's messaging services which are available within SWIFT and/or SWIFT SCORE from time to time.

o. "SWIFT service documentation" means any Bank documentation relating to Client's implementation or setup of SWIFT services, including but not limited to any Treasury Request Confirmation and internal Bank implementation form relating to the SWIFT service.

3. Scope of This Agreement.

a. Client, or an initiating party on behalf of Client, as designated in Client's SWIFT service documentation, (i) may electronically transmit SWIFT messages (including SWIFT messages which contain instructions), by way of the SWIFT messaging services, to Bank and (ii) will receive SWIFT messages (including SWIFT messages which contain information), by way of the SWIFT messaging services from Bank.

b. Bank (i) will receive SWIFT messages (including SWIFT messages which contain instructions) by way of the SWIFT messaging services, from Client, or an initiating party on behalf of Client, and process them as described herein and as defined in Client's SWIFT service documentation, and (ii) may electronically transmit SWIFT messages (including SWIFT messages which contain information), by way of the SWIFT messaging services to Client, or an initiating party on behalf of Client, as defined in Client's SWIFT service documentation.

c. These SWIFT terms and conditions, SWIFT messages from Client, and Client's SWIFT service documentation constitute valid and binding instructions from Client granting Bank authority to act in accordance with SWIFT messages and instructions.

d. Bank and Client will use the SWIFT messaging services to facilitate Bank's provision, and Client's use of the banking services as specified in Client's SWIFT service documentation. However, Client acknowledges that provision and use of such banking services are outside the scope of these SWIFT terms and conditions and shall be governed by the relevant banking services agreement rather than these SWIFT terms and conditions, except as specifically provided otherwise in these SWIFT terms and conditions. In the event of a conflict between these SWIFT terms and conditions and the terms of any banking services agreement, the terms of these SWIFT terms and conditions shall control.

4. Payment Orders and Security Procedures. To the extent Client uses the SWIFT service to send "Payment Order" (as such term is defined in the Wire Agreement) instructions to Bank, or Bank sends any information to Client relating to a Payment Order, then (as applicable) (A) each such instruction shall be deemed to be an "Instruction" or a "Payment Order" for all purposes of, and shall be subject to the terms of, the Wire Agreement; (B) such information shall be deemed to be a "Confirmation" or a "Statement" for all purposes of, and shall be subject to the terms of, the Wire Agreement; (C) the security procedure for verifying the authenticity of each such instruction for all purposes of the relevant banking services agreement shall be deemed to be the steps that are mandated at the time by the then current SWIFT documentation to establish that Client authorized the SWIFT message (rather than the security procedures specified in the relevant banking services agreement) and Client agrees that the steps outlined in the SWIFT documentation constitute a "commercially reasonable security procedure" as that term is used in Article 4A of the Uniform Commercial Code as in effect in the state whose laws govern the relevant banking services agreement, and Client agrees that use of the SWIFT service constitutes acceptance of such security procedure; and (D) any such instruction, the authenticity of which is verified in accordance with the steps that are mandated at the time by the then current SWIFT documentation to establish that Client sent the SWIFT message shall be deemed to be Client's valid and binding instructions, for all purposes of the relevant banking services.

5. Rights and Obligations Related to the Use of SWIFT Messaging Services.

a. Bank will provide the electronic communication services designated in Client's SWIFT service documentation, through the use of the SWIFT messaging services.

b. If applicable to Client's use of the SWIFT messaging services, Client must be an authorized SWIFT participant at all times these SWIFT terms and conditions are in effect or the terms and conditions are applicable to SWIFT services used in conjunction with another product or service.

c. Client must at all times comply with all requirements relating to SWIFT messaging services, including security requirements and requirements relating to SWIFT messages, arising out of the SWIFT agreement or the SWIFT documentation, in connection with these SWIFT terms and conditions. If Client or an initiating party sends a SWIFT message (including a SWIFT message that includes an instruction) by way of the SWIFT messaging services to Bank and such message is not defined in Client's SWIFT service documentation, Bank may, at Bank's option (i) reject or otherwise not act on such SWIFT message and any instruction contained in such SWIFT message or (ii) accept and otherwise act on such SWIFT message and any instruction contained in such SWIFT message.

d. Client must (i) at all times comply with Bank's requirements as set out in the reference materials, and such reasonable instructions and recommendations as Bank provides Client from time to time in relation to the use of the SWIFT messaging services; and (ii) confirm that Client has assessed the security arrangements relating to Client's access to and use of the SWIFT messaging services and concluded that they are commercially reasonable and adequate to protect Client's interests.

e. Client must immediately notify Bank if Client becomes aware of or suspect any potential breach or compromise of the security of the SWIFT messaging services including any that relate to Client's or Bank's rights and obligations under these terms and conditions, such as any loss or disclosure of (or any person other than a person duly authorized in accordance with the SWIFT documentation and Client's own procedures seeking to obtain or obtaining) the means to send SWIFT messages or the actual transmission of a SWIFT message, and provide Bank full details of the suspected breach or compromise.

f. Client must (except to the extent prohibited by any applicable law or regulatory obligation) (i) fully and promptly cooperate with any steps Bank takes to investigate and/or rectify any apparent or suspected breach or compromise of the security of the SWIFT messaging services which is reported under Section 5(e) or otherwise comes to Client's or Bank's attention, including providing such further information regarding the apparent breach as Bank may request; and (ii) promptly provide Bank with such information as Bank reasonably requests to assist Bank in the performance of Bank's obligations under any SWIFT agreement.

6. Bank's Reliance on Instructions.

a. Client must ensure that any instruction included in any SWIFT message Client (or an initiating party) sends Bank by way of the SWIFT messaging services fully and accurately reflects the advice, request, instruction or communication that Client intends to provide Bank and is duly authorized.

b. Client irrevocably authorizes Bank (i) to treat as accurate, authentic and properly authorized, rely upon and implement any instruction in a SWIFT message Bank receives by way of the SWIFT messaging services which Client or an initiating party on behalf of Client originates or appears to originate (including, in the case of a payment instruction, authorizing Bank to debit the operating account specified in the instruction); and (ii) to process each such instruction; provided that, subject to Section 6(c), Bank takes such steps as are mandated at the time by the then current SWIFT documentation to establish that Client sent such SWIFT message. Client acknowledges that (A) such steps constitute a "commercially reasonable security procedure" as that term is used in Article 4A of the Uniform Commercial Code as in effect in the state whose laws govern the relevant banking services agreement and (B) Bank is not obliged to verify such authorization, authenticity or integrity, even in the case of fraud, unless Bank has actual knowledge of the fraud.

c. In determining the steps to be taken to establish that Client sent a SWIFT message (i) no regard shall be given to any steps, or any information provided with the SWIFT message, that goes beyond what is mandated at the time by the then current SWIFT documentation, to identify Client as the sender of the SWIFT message; and (ii) Bank is not required to make any subjective judgment as to the appropriateness of the SWIFT message or any accompanying signature or certificate or otherwise.

d. Without prejudice to Sections 6(a) and 6(c), Bank is not obliged to act on an instruction or to treat an instruction as accurate, authentic or authorized, if: (i) the SWIFT message through which that instruction is provided does not meet the requirements of the then current SWIFT documentation or the reference materials or otherwise appears not to have been prepared or sent in accordance with these SWIFT terms and conditions; (ii) Bank considers that the execution of that instruction may place Bank in breach of any law or regulation; or (iii) Bank reasonably suspects that the SWIFT message in which that instruction was received may not (A) fully and accurately reflect an advice, request, instruction or communication that Client intended

to give Bank; or (B) have been given in accordance with Client's authorization procedures. Except to the extent prevented by applicable law or regulation, Bank will use reasonable attempts to notify Client if, under this Section 6(d), Bank does not act on an instruction.

7. Termination and Suspension. In addition to any rights of termination and suspension in this Agreement, (a) Bank may terminate Client's use of the SWIFT service by notice to Client with immediate effect if (i) either Bank or Client, if applicable, are no longer an authorized SWIFT participant, (ii) SWIFT has ceased to provide the SWIFT messaging services, (iii) SWIFT, in exercise of its rights under a SWIFT agreement, has required Bank to terminate the SWIFT service, or (iv) Bank ceases providing the banking services; and (b) Bank may suspend Client's use of the SWIFT service for such period as Bank considers appropriate in Bank's absolute discretion by notice to Client: (i) if suspension is necessary for the purposes of either routine or emergency maintenance; (ii) for security or technical reasons, including a suspension of the SWIFT messaging services by SWIFT; (iii) if use of the SWIFT messaging services is impossible or cannot be achieved without unreasonable cost; (iv) if suspension is required by SWIFT or the SWIFT documentation; or (v) if suspension is necessary to avoid or reduce any material damage or disadvantage to Bank.

Truist One View Service

1. Description of Truist One View Service. Truist One View is an online platform that provides a single point of access to certain banking services and account and transaction details. The services that can be accessed through One View fall into three categories:

   a. One View services. One View services are embedded in the online platform and include account balance information and transaction details and account statements for certain account types. Account balance information and transaction details may initially be displayed in One View based on Client's setup in Truist Treasury Manager or Digital Treasury, but will later be managed within One View independently by a One View administrator. Additional One View services may be added over time. One View services may be opt-in services that require enrollment or may, at Bank's option, be automatically enabled within the service.

   b. Single sign-on services. Certain banking services (or applications) are or will in the future be enabled (either upon the instruction of a One View administrator or, at Bank's option, automatically enabled if Client uses the service) as single sign-on from within One View and are referred to as "SSO services". Terms and conditions for each SSO service apply to Client's use of such service and are incorporated herein. Users who are entitled to an SSO service can access the service from within One View without entering additional access credentials or authorization codes. The user's ability to access accounts or functions within the SSO service may require the user to be granted both (i) applicable One View entitlements by a One View administrator, as well as (ii) entitlements to the SSO service itself by either an administrator for that SSO service, or by a One View administrator.

   c. Other banking services. Links to other Truist banking services that Client may use are included in the service as a convenience. These services are not embedded in the One View service, nor are they single sign-on enabled. To access such a service, each user must enter the applicable access credentials and/or authorization codes assigned to them by an administrator for that specific service. The process to sign on to these other, "non-SSO services" is the same whether a user accesses the service using the link provided within One View or using the URL that has been provided by Bank for that service. Bank may enable some of these banking services as single sign-on over time. If Client uses one of these banking services and Bank enables that service for single sign-on within One View, Bank may automatically enable those services as SSO services within One View, or may, at Bank's option, require the instruction of a One View administrator in order to enable that service as an SSO service.

2. Security Procedures. The security procedures for the service are described below. Client agrees that use of the service constitutes acceptance of the below security procedures.

   a. Access Credentials. Valid access credentials, which may include authorization codes or tokens, are required to login to the service. Valid authorization codes or tokens may also be required to perform certain actions within One View.

   b. SSO Services. SSO services within One View may require additional security procedures to initiate funds transfers or payments, or to take other actions; the applicable security procedures described in the terms and conditions for each SSO service are incorporated herein by reference.

3. Dual Administration. Dual administration is an available security feature within the service that can be enabled or disabled by a single entitled One View administrator, without the need for an additional approval by another user or administrator. If dual administration is selected, a minimum of two users (or more, if a multi-approval requirement is selected) with sufficient entitlements will be required to approve certain user, service profile, and user entitlement changes. **Bank strongly recommends that Client use the dual administration feature.**

4. Mobile App. A One View administrator can enable use of the mobile application (app) for One View. Once the app is enabled for Client, entitled users who download and install the app can, with valid access credentials, access certain functionalities of the service from their mobile device. A user's entitlements within the app are limited by that user's entitlements in One View (online). The app is available for iOS and Android devices. Certain features or functionality available within One View (online) may differ from those available within the app.

5. Designation and Entitlements of Truist One View Primary Administrator. Client must designate a One View Primary Administrator within a Primary Administrator Designation agreement (or similar agreement accepted by Bank). Client acknowledges that the Primary Administrator has or may in the future have all of the following entitlements, which the Primary Administrator can also assign to other users and users with administrative entitlements (One View administrators) such that other users have up to and including the same entitlements as the Primary Administrator:

   a. Full entitlements to all One View services and accounts set up for Client on One View. If services are opt-in, the Primary Administrator will have the authority to opt-in for Client.

   b. The role of an administrator for the SSO services, including full entitlements and ability to perform all administrative functions for each SSO service, regardless of whether the Primary Administrator was granted entitlements to the SSO service by an administrator designated for such service.

   c. Ability to create, edit and delete users and users with administrative entitlements (One View administrators) within One View and the SSO services, assigning such users and administrators with the appropriate level of entitlements, up to and including those of the Primary Administrator. The Primary Administrator will not have any entitlements to non-SSO services, unless such individual has been granted entitlements to the non-SSO services by the applicable administrator for the service.

   d. Ability to modify or delete the SSO service administrators, including the SSO service Primary Administrators.

   e. Ability to select statement delivery preferences (paper and online, or online only) for all deposit accounts included within One View. When online-only (electronic) statement delivery is selected for a deposit account, paper statement delivery will be suppressed for such account, and the statements for such account will only be available within One View to entitled users. Bank strongly recommends that Client establish appropriate internal controls to monitor deposit accounts for which statement suppression has been selected. Client's statements will be posted and available within One View in electronic format at the same time intervals (e.g., weekly, monthly, quarterly) that the paper statement for such account would have otherwise been printed and sent to Client.

   f. Ability to add any of the accounts (including, but not limited to, deposit accounts, loan or line of credit accounts, and credit, commercial, or purchasing card accounts) opened with Client's Tax ID Number (TIN) or otherwise associated or affiliated with Client (such as via an Associated Entity Agreement for Treasury Management Services, or other documentation accepted by Bank) to Client's One View setup, and to select which One View services or functionalities are available for such accounts.

   The Primary Administrator as well as other One View administrators can create users (including administrators), activate/deactivate users, and assign entitlements for accounts, One View services, and SSO services. However, an administrator can assign to others only those accounts and services to which the administrator is entitled. The Primary Administrator can assign to others all accounts and services, since the Primary Administrator has full access to accounts and services within One View.

6. Change of Truist One View Primary Administrator. To change the One View Primary Administrator, Client must execute a new Primary Administrator Designation agreement, naming the new One View Primary Administrator. **Note that when Client designates a new Truist One View Primary Administrator, the entitlements of a previous Truist One View Primary Administrator may not be automatically removed; therefore, it is the responsibility of the new Primary Administrator to modify the entitlements of or deactivate the individual who was the previous Primary Administrator as appropriate.**

7. Loan and Card Accounts. If any loan, line of credit, or credit, commercial, or purchasing card account types are included in One View, the term "account" when used in reference to the service includes these account types. By

requesting the account to be included in the service, Client authorizes Bank to provide or display information relating to such loan or card accounts within the service or to entitled users, and to provide any available functionality or service with respect to those accounts as may be requested or enabled by an entitled user, including, but not limited to, the ability to view account and transaction information, to make payments on the accounts, or to perform drawdowns or other transactions on the accounts. Client represents and warrants to Bank that inclusion of such accounts in One View is in accordance with and does not violate any terms, resolutions, or agreements relating to the accounts. Client shall indemnify and hold Bank harmless against any claim, loss, damage, cost or expense including litigation expenses and reasonable attorney's fees resulting from a breach of the representation and warranty in this Section 7 or resulting in any way from the inclusion of the account in One View.

Truist Treasury Manager Service

1. Description of Truist Treasury Manager Service. The Truist Treasury Manager service is an online web-based information reporting and transaction initiation service. Details regarding functionality and certain technical requirements are included in the Truist Treasury Manager reference materials. Client's selection of accounts to be included in the service as well as certain options or transaction capabilities shall be reflected in a Treasury Request Confirmation. Certain options or transaction capabilities may be governed by additional service terms and conditions, and to the extent Client selects such options or capabilities for use within the service, those additional applicable terms and conditions are incorporated into these Truist Treasury Manager service terms and conditions.

2. Administrators. Client must identify a Primary Administrator of the service in a Primary Administrator Designation agreement (or other similar agreement accepted by Bank). If Client elects the dual administration feature, which is an optional security feature of Truist Treasury Manager, a second user with sufficient entitlements must approve requests to create, modify, or remove a user's entitlements or system access. In order to elect the dual administration feature, Client must designate a second Truist Treasury Manager administrator, in addition to the Primary Administrator, in a Primary Administrator Designation agreement. **Bank strongly recommends that Client use the dual administration feature.** If Client requests more than one setup of the service, Client must designate a Primary Administrator (and second administrator, if dual administration is elected) for each setup. Each setup is identified by a unique company identifier, or "Company ID". The administrator(s) for each setup will have the ability to manage user entitlements within that setup only.

3. Security Procedures. The security procedures for the service are described below. Client agrees that use of the service constitutes acceptance of the below security procedures.

   a. Access Credentials. Valid access credentials are required to login to the service.

   b. Dual Approval. Any ACH or wire transaction initiated through the service requires dual approval, which means that one authorized user with sufficient entitlements must initiate the transaction and a different authorized user with sufficient entitlements must approve the transaction in order for the transaction to be released and processed.

   c. Wire Transactions. Any wire transactions initiated through the service require the approver (the final user who must approve the transaction) to enter a code obtained from a token device in order for the transaction to be released and processed.

4. Secure Browsing Software. A secure browsing software such as Rapport, the secure browsing software provided by Trusteer Inc. (an IBM company), may be required to be installed on any computer or other supported device used to login to the service. If Bank requires the secure browsing software for Client's setup of the service, a user may not be able to access the service if the user attempts to login from a device on which the secure browsing software is not installed and running. Users may be required to download the secure browsing software and accept a separate software license agreement in order to install the secure browsing software on each device which is used to access the service. Client agrees that Client's use of the secure browsing software is subject to, and Client is bound by and will comply with, the terms of the software license agreement. **BANK DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND RELATING TO THE SECURE BROWSING SOFTWARE, INCLUDING ANY REPRESENTATIONS AND WARRANTIES OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. BANK HAS NO RESPONSIBILITY FOR (i) THE PERFORMANCE OF THE SECURE BROWSING SOFTWARE OR THE VENDOR OF THE SECURE BROWSING SOFTWARE, (ii) COMPATIBILITY OR AVAILABILITY OF THE**

SECURE BROWSING SOFTWARE, OR (iii) DAMAGES OF ANY KIND CLAIMED UNDER ANY CAUSE OF ACTION ALLEGED TO INVOLVE OR RELATE TO THE SECURE BROWSING SOFTWARE OR THE VENDOR OF THE SECURE BROWSING SOFTWARE. Client is solely responsible for determining if the secure browsing software is compatible with Client's equipment, communications capabilities, and other software and for ensuring any installation of the secure browser software is in accordance with Client's policies. Client agrees any vendor of the secure browsing software is authorized to make certain information related to the device on which it is installed, including but not limited to the IP address, browser information, and operating system information, available to Bank; Bank has no obligation to provide notice of any such information to Client, including with respect to any information made available to Bank for purposes of detection of potentially fraudulent or suspicious activity. Client's confidentiality obligations under the general terms and conditions apply to any secure browsing software and any related license agreement or other related documentation.

5. Loan and Card Accounts. If any loan, line of credit, or credit, commercial, or purchasing card account types are included in Client's setup of the service, the term "account" when used in reference to the service includes these account types. By requesting the account to be included in the service, Client authorizes Bank to provide or display information relating to such loan or card accounts within the service or to entitled users, and to provide any available functionality or service with respect to those accounts as may be requested or enabled by an entitled user, including, but not limited to, the ability to view account and transaction information, to make payments on the accounts, or to perform drawdowns or other transactions on the accounts. Client represents and warrants to Bank that inclusion of such accounts in Truist Treasury Manager is in accordance with and does not violate any terms, resolutions, or agreements relating to the accounts. Client shall indemnify and hold Bank harmless against any claim, loss, damage, cost or expense including litigation expenses and reasonable attorney's fees resulting from a breach of the representation and warranty in this Section 5 or resulting in any way from the inclusion of the account in Truist Treasury Manager.

Universal Payment Identification Code Service

1. Description of Universal Payment Identification Code Service. The Universal Payment Identification Code ("UPIC") service generates a unique number assigned to one of Client's Truist demand deposit accounts, which Client can then provide to Client's trading partners who make payments to Client through the Automated Clearing House (ACH) network. Client's use of the UPIC service allows Client to mask Client's banking relationship and account number to reduce the risk of fraudulent use of Client's account information. Details regarding UPIC's functionality, formatting, and other technical requirements that Client must follow when using the UPIC service are provided in the UPIC reference materials.
2. Roles under the UPIC Service. Bank will assign a separate UPIC number to each eligible account Client identifies. Under the UPIC Service, Bank acts as the receiving depository financial institution with respect to UPIC ACH entries that are sent to Bank for receipt into one of Client's accounts. As a receiver of the ACH entries, Client acknowledges that the entries shall be processed according to the Nacha Operating Rules and Guidelines governing the ACH network.
3. Eligible Accounts. The UPIC service may only be used for a demand deposit account or other transaction account of a corporation, partnership, limited liability company, or unincorporated association; the government of the United States or an agency of the United States; a state or local government or an agency of a state or local government; or one or more non-consumer accounts of individuals (such as sole proprietors) when the account is used primarily for business purposes. An account of one or more individuals used primarily for personal or household purposes, i.e., a consumer account, may not be used with the UPIC service.
4. Use of UPIC Number. The UPIC number is only to be used for incoming ACH credit entries. Client may provide the UPIC number and the related universal routing number to Client's business trading partners that will originate ACH credit entries to Client's designated accounts. Client represents that Client will not authorize any person or entity to originate any debit entries using the assigned UPIC number.

Wholesale Lockbox and Retail Lockbox Services

1. Description of Wholesale Lockbox and Retail Lockbox Services. Bank's Wholesale Lockbox and Retail Lockbox services are designed to facilitate the receipt and processing of Client's accounts receivable remittances. These terms and conditions apply to both Wholesale Lockbox and Retail Lockbox services unless otherwise stated.

Note that certain features described in these terms and conditions are not available at all lockbox processing locations. Details regarding functionality and formatting and other technical requirements Client must follow when using a Lockbox service are provided in the reference materials for the applicable Lockbox service.

a. Wholesale Lockbox Service.

i. Wholesale Lockbox Service. Wholesale Lockbox service is designed to process large dollar payments along with related invoices, correspondence, or other document images.

ii. Healthcare Processing. Client must disclose if they are a covered entity as defined by HIPAA regulations; certain processing standards may apply. Any paper returned to Client must be sent via a trackable mail delivery method.

iii. Wholesale Lockbox Lite Service. Wholesale Lockbox Lite service is a form of Wholesale Lockbox service that is limited to a total of 500 items (as defined in applicable reference materials) per month in any combination of checks and remittance document images. If Client subscribes to this service and Client exceeds 500 items in any month, each item over 500 will be assessed an overage fee. The following limitations apply to Wholesale Lockbox Lite service: image services options include only check and document imaging, full text searching, and a seven-year archival period; CD ROM, Image Transmission file, Batch Download, Credit Card Processing and Remitter Table are not included; signature and date Services shall not be available; remittance material services shall only include the mailing of rejected items back to Client. Other features of Wholesale Lockbox service may not be available under the Wholesale Lockbox Lite service.

b. Retail Lockbox Service. Retail Lockbox service is designed to process a high volume of low-dollar payments with machine-readable remittance coupons. Retail Lockbox service may also be referred to as Scannable Lockbox service.

2. Implementation of Lockbox Service. Bank will implement the applicable Lockbox service for the accounts designated by Client, per lockbox operating instructions as agreed to between Bank and Client.

3. Transfer of Lockbox Materials. If Client designates a courier service or other agent to pick up copies of items, remittance materials, or any other property, from any lockbox site, then Client agrees that transfer of possession of such materials to Client's agent constitutes delivery to Client, and Client assumes any and all risks incidental to or arising out of such transfer to Client's agent. Client also agrees that any courier of Client shall be considered Client's agent and Bank shall have no liability once Bank delivers any items into the possession of that courier. In the event Bank mails any lockbox materials to an address designated by Client, Client agrees that Bank has no responsibility for such materials after Bank mails them.

4. Image Services. Image services options enable Client to view images of checks and remittance payment information that are received through Client's lockbox. Client can access these images and transaction information through Image Browser, Image CD ROM, Image DVD, Virtual CD, and/or Image Transmission file, as described below. Client must designate a Primary Administrator for the image service options. This individual will also act as the Primary Administrator for Online Decisioning/Web Exceptions (described below), if Client elects to use that feature.

a. Image Browser. Image Browser provides internet-based access to Client's lockbox images and data with flexible viewing parameters and search capability for check and document information; Batch Download, Full Text Search, and Remitter Table capabilities are also available as additional service selections.

b. Image CD ROM and Image DVD. Image CD ROM and Image DVD allows Client to access and download Client's lockbox images along with index fields of information for long-term archival purposes on CD-ROM or DVD.

c. Virtual CD. Virtual CD is downloaded from Image Browser to support Client's need for a long-term archive. Lockbox images of checks and documents can also be downloaded onto Client's computer from Virtual CD. Virtual CD file availability aligns with Client's image archive storage period.

d. Image Transmission File. Image Transmission File provides customized access to Client's lockbox images along with index fields of information that can be downloaded directly into Client's accounts receivable systems. Image Transmission files are delivered to Client per specifications established during implementation.

5. Processing of Deposits. Bank will establish one or more post office boxes or "lockboxes" in Client's name as specified during implementation of the service. In the event Client owns a USPS PO Box and chooses to use it

for Client's lockbox payment processing, Client is responsible for communicating all mail direction or other PO Box changes to the USPS. On each banking day after a lockbox has been established, Bank will process the checks, drafts and money orders (all of which are referred to as "items") received in a lockbox in accordance with the instructions in effect at the relevant time and Bank will communicate deposit totals and advices as agreed upon with Client.

a. Processing of Wholesale Lockbox Items. An item containing a payee name that does not reasonably correspond to an acceptable payee list Client has given Bank will be handled in accordance with Client's lockbox instructions. Bank will not inspect an item for the drawer's signature or the date. Unless otherwise stated in Client's agreed-upon lockbox instructions, Bank will also not inspect any item and/or accompanying correspondence in an effort to identify "payment in full" or other similar payment dispute language or any language that states that acceptance or deposit of the item binds the payee or depositor to any agreement or terms. Bank will not be liable for any loss resulting from processing any such items, including any items Bank may inspect in an effort to identify such language. As part of processing an item, Bank will also enter data regarding certain aspects of an item per the lockbox instructions (such as the drawer's name and the account invoice number shown on the item) into the data file Client will receive. Client agrees that Bank will not be liable for errors entering any of that data.

b. Processing of Retail Lockbox Items.

   i. Automated Processing System. Bank processes items through the use of automated systems. Client's remittance documents must be approved by Bank for use with Client's lockbox, include details and identifiers that are required by Bank to identify and validate items for automated processing. Bank will test the performance of Client's coupons and will begin providing the lockbox service to Client only upon the satisfactory completion of the test. If the form, layout or font on these documents changes it is important that Lockbox systems that read these items for processing are updated to reduce the potential for systemic read errors. Client must notify Bank of such changes before documents are received for Lockbox processing. Items that fail to read will be returned to Client for subsequent handling and/or redeposit.

   ii. Items with Coupons. Bank will automatically deposit items, regardless of payee name, into the relevant account when the items are accompanied by coupons that match Client's assigned P.O. Box number. Bank will not inspect these items, including any inspection for payee name, drawer signature, date, or for items and/or accompanying correspondence containing "payment in full" or other similar payment dispute language. Bank will not be liable for processing or depositing items without inspecting them.

   iii. Items Without Coupons. Items that are not accompanied by coupons will be returned to Client or processed manually as directed in the instructions agreed upon with Client. Bank will not inspect any item for the drawer's signature or the date. Bank will also not inspect any item and/or accompanying correspondence to attempt to locate "payment in full" or other similar payment dispute language, or any language that states that acceptance or deposit of the item binds the payee or depositor to any agreement or terms. Bank will not be liable for any loss resulting from processing any such items. As part of processing an item, Bank will also enter data regarding certain aspects of an item per the lockbox instructions (such as the drawer's name and the account invoice number shown on the item) into the data file Client will receive. Client agrees that Bank will not be liable for errors in entering any of that data.

   iv. Stop File. In accordance with Bank's instructions, Client may give Bank a file of items that Client does not want Bank to process. Provided Bank receives the stop file in a reasonable period of time before the items in question are received in a lockbox, Bank will use good faith efforts to attempt to stop the processing of items in Client's file and return them to Client, but Bank will not have any liability if Bank processes any such item.

   v. Data Files. On each banking day Bank will make a data file regarding the items processed in each lockbox that day available to Client through one of Bank's online services.

c. Endorsement. Bank will endorse items for deposit with Bank's standard lockbox endorsement and deposit items to the relevant account. Bank will not be liable for any loss relating to Bank's failure to endorse an item properly.

d. Forwarding and Returning Items. If Client receives an item that should have been delivered to a lockbox, Client may forward it to Bank's lockbox department. Bank will process all such items (whether accompanied by a coupon or not) automatically and without inspecting them. If Client receives an item or image of an item

from Bank and Client or Bank discovers that such information was mis-delivered to Client, Client must immediately notify Bank immediately and delete and/or return all such information to Bank. In addition to any other rights available to Bank, Bank may immediately terminate the Lockbox service if Client fails to comply with this provision.

e. Cash and Other Property. Bank will deposit any cash received in a lockbox into the relevant account; Bank's count of the cash will be considered final. Any property other than items, cash and related remittance materials received in a lockbox will be sent to Client, and applicable fees charged to Client. Client agrees that Bank shall have no liability for any cash or other property received in a lockbox.

f. Return Items. Unless otherwise stated in the instructions, Bank will handle dishonored or returned items in accordance with the terms of the Commercial Bank Services Agreement (CBSA).

6. Remittance Materials. Bank will destroy the original remittance materials (such as invoices, payment coupons, correspondence and the like) within a period of time (as determined by Bank) after receipt by Bank. Bank will only return original remittance materials received in a lockbox to Client if Client's lockbox instructions direct Bank to return those materials. Client agrees that Bank is not liable for loss, theft, or damage to such materials after they leave Bank's possession, if they are mailed to Client's address indicated in Bank's records or delivered to Client's agent or a courier. Once Bank destroys the original remittance materials, the images of that Bank may capture during processing will be the only source of information about their contents and although Bank may retain images for a certain period of time to comply with internal document retention requirements, Client will only have access to such images if Client selects one of Bank's image services. Client agrees that Bank will have no liability for any missing image, or if any image Bank captures is not legible, or if Client fails to subscribe to one of Bank's image services and thus does not have access to image items and materials received into Client's lockbox.

7. Affiliate Deposits. If Client has not given Bank an acceptable payee list, Client represents and warrants to Bank that Client has the authority to endorse and deposit each item received in Client's lockbox into Client's account(s), even if the payee name on an item is not Client's name as shown in Bank's records. In addition, if Client has given Bank an acceptable payee list, Client represents and warrants to Bank that if any name on that list is a separate legal entity (rather than merely a "d/b/a" or trade name that Client uses), that Client has authority from that entity to have items payable to the entity endorsed and deposited into Client's account(s). Client agrees to provide Bank with satisfactory evidence of such authority upon request.

8. Termination. If a Lockbox service is terminated for any reason, then Bank will complete the processing of items Bank received prior to the termination date. Upon request, Bank will forward mail for up to 90 days. After that time, Client may elect to extend the forwarding period for up to nine months (additional fees will apply to this service) or Bank will return mail to the sender. The lockbox billing account must remain open and active during the mail forwarding period as account maintenance fees will continue to apply. If Client implements image archival services as part of Client's Image Browser service and Client's Image Browser service is later terminated, upon request from Client made at the time of termination, a historical CD ROM(s) or DVD(s) may be generated based on the extent of images remaining per Client's archive duration (example: archive duration is 90 days but active for more than 1 year, images available will equal last 90 days of storage); additional fees will apply.

9. Online Decisioning/Web Exceptions. Online Decisioning (available for Wholesale Lockbox service) and Web Exceptions (available for Retail Lockbox service) are optional features of Lockbox services. Online Decisioning/Web Exceptions is a decisioning and data entry tool that allows Client to make processing decisions for lockbox exception items, and to input remittance data online. Client's lockbox exception items will be presented to Client, identifying the first reason code that caused the item to reject. Client may then use Online Decisioning/Web Exceptions to have each item forwarded to Client, or have each item processed by Bank for deposit. If Client fails to decision any item by Client's daily processing deadline, it will be rejected unless Bank, in Bank's sole discretion, has offered to allow Client to elect to holdover items not processed by daily cut-off time. If the holdover feature is utilized, Client will hold Bank harmless for any delay in processing applicable negotiable instruments and any associated remittance. The holdover feature may not be offered to all Clients..

10. Payment Card Transaction Handling. At Client's option, Bank will process payment card remittances sent to Client's lockbox. If Client selects this option, Client appoints Bank as Client's agent for purposes of processing payment card transactions and submitting transactions to Client's merchant processor for authorization, and Client agrees to provide Bank with all information required to access the merchant processor's authorization system. Client will hold Bank harmless from any and all claims asserted by Client's merchant processor that arise from an allegation that (i) Client does not have the authority to appoint Bank as Client's agent, or (ii) Client does not have the authority to grant Bank access to Client's merchant processor's system. Client will be solely

responsible for notifying Client's merchant processor that Client has appointed Bank as Client's agent. Alternatively, as available in some processing locations, Client may request that Bank image Client's credit card payments but not authorize the transactions; Bank will use reasonable efforts to attempt to redact the CVV or CVC information on the remitted documents prior to imaging, but shall have no liability to Client if Bank fails to redact any such information.

11. Long Term Retention of CD Rom and DVD. If Client receives an Image CD ROM or Image DVD (on a regular basis or as a one-time delivery of historical lockbox materials), Client should regularly download data to Client's own long-term storage/retention system in order to meet Client's retention requirements. Client should not rely on the CD ROM or DVD for long-term retention of the data, as viewing software may become unavailable or obsolete and the associated encryption key(s) unable to be retrieved or reproduced.

Wire Service

Wire Service. Wires transfers initiated through one of the treasury management services governed by this Agreement are subject to the Truist Wire Agreement, in addition to the terms and conditions for the treasury management service used to initiate the wire transfer. The Truist Wire Agreement is included herein, and is also available at [insert website]. In the event of any conflict between the version of the Truist Wire Agreement included herein, and the Truist Wire Agreement posted online, the version of the agreement posted online shall control.

Truist Wire Agreement

This Truist Wire Agreement is made by and between Truist Bank ("Bank") and Client (as defined below). This Agreement shall govern all funds transfers initiated via the following methods or services, according to the terms herein: Corporate Call, Retail PIN, Drawdown Wire, Standing Order Wire, and wires initiated through one of Bank's treasury management services governed by the Truist Treasury Management Agreement. Each of these methods or services is referred to herein as a "Wire Service", and any documentation relating to a Wire Service (including but not limited to the Truist Treasury Management Agreement, another service agreement, implementation form, or other document providing service and account elections and details relating to wire transfers to be initiated via the Wire Service) is referred to herein as a "Wire Document". Client agrees to the terms of this Agreement by executing a Wire Document and/or requesting a Wire Service that is subject to the terms of this Agreement. Any wire initiated through a Wire Service shall be subject to the terms of this Agreement as well as the terms of the applicable Wire Document. The terms of Bank's Bank Services Agreement ("BSA") or Commercial Bank Services agreement ("CBSA"), as applicable to the Account used for wire initiation, are incorporated into this Agreement by reference, and shall apply to each wire initiated through a Wire Service and any claims or disputes that arise out of this Agreement, including but not limited to BSA or CBSA provisions regarding the mutual arbitration agreement, jury trial and litigation class action waiver, duty of care, costs, expenses, fees, applicable law, and jurisdiction. In the event of a conflict between the CBSA or BSA and this Agreement, the terms of this Agreement shall control.

1. Definitions. The following are defined terms:
    a. "Account" means the account(s) designated by Client on a Wire Document(s) to be used as the source of payment for Payment Orders.
    b. "Authorized Sender" means a person designated by Client on a Wire Document, and any user entitled by an administrator or otherwise within the Wire Service, who is authorized to initiate, submit and/or verify Payment Orders and Instructions to Bank. The term Authorized Sender when used herein includes "Authorized Representatives" designated on a Corporate Call or Retail PIN Wire Service Details and Authorized Representatives agreement.
    c. "Confirmation" means any notice (oral, written, electronic, or otherwise) informing Client of the date and amount of each Transfer to or from an Account.
    d. "Client" means the individual or entity that has executed a Wire Document and will use one or more or Wire Services for wire initiation that is governed by this Agreement.
    e. "Instructions" means the Transfer related directions given by an Authorized Sender to Bank, including amendments or cancellations of Payment Orders. Instructions will be provided pursuant to the terms of the applicable Wire Document.
    f. "Payment Order" means a request (oral, written, or electronic) from an Authorized Sender directing Bank to initiate a Transfer from an Account.

g. “International Payment Order” means a Payment Order in which the beneficiary’s bank is located outside of the United States.

h. “Repetitive Transfers” mean Transfers initiated by Payment Orders in which the debit and beneficiary information, designated by Client on its Corporate Call Repetitive agreement or Retail PIN Repetitive agreement, remains constant, but the date and dollar amount vary; Transfers are initiated using a Repetitive Code.

i. “Standing Order Transfers” mean Transfers made as ordered by Client on a Standing Order Wire agreement, in which the debit and beneficiary information remain constant, and the frequency and amount of the Transfer are according to the instructions on the Standing Order Wire agreement.

j. “Drawdown Wires” mean Transfers made as ordered and agreed to by Client on a Drawdown Wire agreement, authorizing another institution to transfer funds from Client’s account at the Bank.

k. “Statement” means Client’s periodic Account statement.

l. “Transfer” means a transfer of funds by Fedwire, SWIFT, CHIPS, telex, computer terminal, electronic, or other means, but excluding transfers made through the ACH network or Real-Time Payments network.

2. Authorized Sender. Authorized Senders may provide Payment Orders and Instructions to Bank.

3. Client Signature. A Wire Document may be signed manually or electronically according to Bank’s instructions. A duplicate or copy of any manually or electronically signed Wire Document delivered to Bank through facsimile or email attachment shall be as effective and enforceable as an original manually signed agreement. A digital, electronic or photostatic image of any such signed Wire Document maintained in Bank’s record retention system shall be as effective and enforceable as an original manually signed agreement. Client consents to the use of electronic records and signatures with respect to Client’s use of any Wire Service.

4. Form of Instructions. Bank may act upon Payment Orders or Instructions. Any Payment Order or Instruction which does not comply with Bank's procedures or which exceeds the available balance of the funds on deposit in an Account may be canceled from Bank's wire system without notice to Client or liability to Bank.

   a. Special Instructions. Client may elect to authorize Repetitive Transfers for Retail PIN Wire Service by executing a Retail PIN Repetitive agreement, or for Corporate Call Wire Service by executing a Corporate Call Repetitive agreement. Bank's assignment of a Repetitive Code for Repetitive Transfers is not a security procedure as such term is used herein. Client may also elect to authorize a Standing Order Transfer by executing a Standing Order Wire agreement. Client may make arrangement with another financial institution to debit an Account by means of a drawdown instruction by executing a Drawdown Wire agreement. Bank shall be under no obligation to comply with any drawdown request or make any transfer which would exceed the balance of available fund on the deposit in the Account. Client agrees that any drawdown request must be received by Bank prior to Bank’s established cut-off time; drawdown requests received after that time may be refused.

   b. Electronic Instructions. If Bank accepts Client's election to initiate Payment Orders and Instructions from Client's electronic access system, Client shall be responsible for the security and confidentiality of Client's system and for the accuracy and completeness of any data received by Bank.

5. Processing Transfers. Bank may select any means for the transmission of funds which it considers suitable, including but not limited to Bank’s own internal systems. Bank may use any of its domestic or foreign correspondent banks to facilitate or effect payment. Bank may also substitute or insert a routing number of an intermediary or beneficiary bank provided by Client in a Payment Order, if such substitution is necessary for the means of transmission used, provided that the substituted or inserted routing number identifies the same intermediary or beneficiary bank included in the Payment Order.

   Bank may, in its sole discretion, verify or authenticate any Payment Order or Instruction by contacting Client by telephone or by any other means deemed reasonable by Bank, but Bank is under no obligation to do so. If Bank is unable to verify or authenticate a Payment Order or Instruction, it is within the Bank's sole discretion to either effect or refuse such Payment Order or Instruction.

   Bank may cancel the Transfer without notice or liability to Client if (i) the request does not comply with Bank’s procedures, (ii) Bank reasonably believes the transfer is prohibited by applicable law, (iii) the Transfer exceeds the available balance of funds in the Account, (iv) Bank attempts to verify a Payment Order and is unable to do so, or (v) as otherwise provided in this Agreement.

6. Funding Obligations. Client is responsible for ensuring that there are sufficient collected and available funds in the Account to satisfy all Payment Orders and other debits which may be presented on a given day. Bank may handle Client's Payment Orders with other debits for the day in any order chosen by Bank, in Bank's sole discretion. If funds are insufficient to cover all debits, this may result in rejection or cancellation of the Payment Order, delay in execution until sufficient funds are available, or the creation or increase of an overdraft in the Account.

7. Confirmations and Duty to Report Errors. The date and amount of each Transfer are described on the applicable Statement. Bank may also deliver Confirmations to Client in writing, electronically, or by a report produced by one of Bank's information reporting services, and/or as otherwise described in the applicable Wire Document. Bank will not deliver next day notice of receipt of incoming Transfers. Client shall examine upon receipt, but in no event later than 30 days after receipt, any Statement or Confirmation (whichever first occurs) and notify Bank of errors or discrepancies in connection with a Transfer shown on the Statement or Confirmation. Failure to notify Bank of any error within such 30-day time period shall relieve Bank of all liability for the any unauthorized or erroneous Transfers reflected in such Statement or Confirmation.

8. Corporate Call and Retail PIN Wire Services. Corporate Call and Retail PIN Wire Services are funds transfer services that are available through the use of a phone to an interactive voice response (IVR) solution. Corporate Call is offered to business Accounts, and Retail PIN is offered to consumer Accounts. The terms of the applicable Wire Document(s) for Corporate Call or Retail PIN govern the use of the service in addition to the terms of this Agreement.

9. Amendment or Cancellation of Payment Orders. Any Instruction canceling or amending a Payment Order is not effective unless Bank has received such Instruction at a time and in a manner affording Bank a reasonable opportunity to act before processing the Transfer. Client may not be able to cancel or amend a Transfer after it is processed by Bank. However, Bank may, at its discretion, use reasonable efforts to act on an Instruction for cancellation or amendment. If Client requests that Bank attempt to recover a Transfer, Client may be required to deposit funds with Bank or provide other payment assurances that are satisfactory to Bank to cover the cost, expense, charges, and/or attorneys' fees incurred by Bank in its recovery attempt, and Client agrees to indemnify and hold Bank harmless from any and all liabilities, costs and expenses Bank may incur in attempting to recall or amend a processed Transfer. Bank's attempt to recover funds shall not be an acceptance of responsibility for the completed Transfer. Bank does not guarantee the recovery of all or any part of a Transfer, and any expenses of Bank or its correspondent bank relating to the recall or return of funds shall be deducted from the amount of the returned funds. In the event Bank receives the return of funds in a currency other than U.S. Dollars, the funds will be converted by Bank into U.S. Dollars at Bank's current buying rate for that currency on the date of return. Bank shall not be liable for any resulting exchange losses.

10. Deadlines. Bank maintains deadlines for the receipt of Payment Orders and Instructions, including cancellations and amendments, and such deadlines are subject to change at the sole discretion of Bank. Payment Orders and Instructions received after the deadline shall be treated as received on the next banking day. Bank may, in its sole discretion, execute Payment Orders received after the deadline on that same banking day only as an accommodation to Client.

11. Security Procedures. The security procedures Bank offers to Client are designed to control access to the Wire Services and verify the authenticity of instructions provided to Bank. The security procedures are not designed to detect errors in the content of Payment Orders or Instructions transmitted to Bank, including but not limited to intended account numbers of Client, account numbers not belonging to the name of recipient, and erroneous or fraudulent instructions provided to Client by another party. The security procedures for Wire Services are described below. Client agrees that use of the applicable Wire Service constitutes acceptance of the below security procedures, and agrees that the security procedures are commercially reasonable for Client's use of the Wire Service, including the size, type and frequency of any possible Transfers that may be initiated from an Account that is associated with the Wire Service now or in the future. Client agrees to be bound by, and Bank is authorized to rely and act upon, all Payment Orders accepted by Bank in good faith and in compliance with the applicable security procedures, whether or not Client (or a user, administrator, or Authorized Sender of Client) actually gave Bank those instructions. Client agrees to comply with additional security procedures that may be implemented by Bank for a particular Wire Service from time to time.

    Client is responsible for controlling access to and maintaining the confidentiality of the details related to the security procedures and Client must immediately report to Bank as soon as Client becomes aware of any (i) suspected breach of that confidentiality, (ii) compromise of any security procedure, or (iii) need to revoke any access credentials or authorization codes. Client's failure to control access to and maintain confidentiality of the

security procedures, or failure to notify Bank as required herein, may result in improper use of the security procedures to initiate or access a Wire Service or initiate Transfers. Subject to applicable law, Client shall be responsible for any transaction or losses relating to access to a Wire Service resulting from such improper use of security procedures, provided Bank has complied with its obligations herein, and Client agrees that Bank shall have no liability for any loss, claim or damage Client sustains as a result of the improper use of the security procedures.

a. Security Procedures for Transfers initiated via a Treasury Management Service. For Transfers initiated via a treasury management service governed by the Truist Treasury Management Agreement, the security procedures applicable to logging on to/accessing the service (such as valid access credentials and/or authorization codes or tokens), as well as security procedures applicable to wire transactions within the service (such as dual approval and/or authorization codes or tokens required to release a transaction for processing) apply to Transfers initiated via that treasury management service.

b. Security Procedures Applicable to Corporate Call and Retail PIN. Transfers initiated via Corporate Call or Retail PIN Client require the following verification elements items (i), (ii), (iii) and if required by Bank in Bank's discretion or by Client per elections made within the applicable Wire Document, item (iv).

   i. Profile ID – 6-digit numerical ID emailed to Client's Authorized Representatives by Bank,

   ii. Personal Identification Number (PIN) - assigned by Bank's system to Client (temporary PIN will be sent via U.S. Mail to each Authorized Representative; the PIN must be activated and changed to a confidential PIN within 90 days after receipt),

   iii. Dynamic Passcode via Email or Mobile Phone – one-time verification passcodes, and

   iv. Wire Verification via Telephone Call Back – by Client to Bank may be required.

   If the Dynamic Passcode delivery method selected is mobile phone, applicable to US dialing only, then one SMS message containing a dynamic passcode is sent per Payment Order. Client may call 800-774-8179 for additional information or help with the mobile phone Dynamic Passcode delivery option, including to obtain instructions to stop enrollment in SMS messages.

12. Recording. Client consents to Bank recording telephone calls, including, without limitation, Payment Orders and Instructions. Client assumes the responsibility for obtaining the consent of the Authorized Senders for these recordings. The recordings made shall be conclusive confirmation of Payment Orders and Instructions. Client acknowledges that not all calls will be recorded.

13. International Transfers. If the amount transferred is of a currency other than that of the country to which it is transferred, it shall be payable to the payee (beneficiary) in the currency of the specified country at the then buying rate, unless the payee arranges otherwise with the paying bank and/or deposit bank and pays all its charges in connection therewith.

    a. For International Transfers (Remittance Transfers) From a Consumer Account. Bank may in its discretion decline to comply with Client's request to use a particular intermediary or pay through bank and may substitute a correspondent bank of Bank's choosing. Client may cancel a transfer for a full refund within 30 minutes of payment for the Transfer, provided that the Instruction to cancel enables Bank to identify the sender's name and address or telephone number and the particular transfer to be canceled, and the transferred funds have not been picked up by the recipient or deposited into an account of the recipient. Other than this thirty-minute right of cancellation, Client may not be able to recall or amend a Transfer after it is processed by Bank and other applicable provisions of this Section shall apply. If Client believes there is an error with respect to the Transfer, Client must notify Bank (by calling 844-4TRUIST / 844-487-8478) within 180 days of the Availability Date set forth on the receipt provided to Client. Failure to notify Bank within the 180-day time period shall relieve Bank of all liability for the Transfer. Client can also contact Bank for a written explanation of Client's rights.

    b. For International Transfers From a Non-Consumer Account. Bank or any correspondent or intermediary bank reserves the right to convert the amount of any Transfer to a local (generally beneficiary's country) currency prior to executing the Transfer. In the event Client designates an Intermediary Bank in Client's Payment Order, Bank will first send the Transfer to Bank's correspondent bank, and such correspondent bank will then route the Transfer to Client's designated Intermediary Bank. Bank may not offer foreign currency Payment Orders in a particular foreign currency, at Bank's discretion.

c. Foreign Currency Conversion Opt Out. If an Opt Out election is not made for an Account per an applicable Wire Document, Bank reserves the right, at its option to convert or instruct Bank's correspondent (a bank with which Truist has a relationship for the purpose of sending international wires) to convert any U.S. Dollar-denominated international Payment Order from the Account to the currency of the country in which the beneficiary's bank is located. If the Opt Out election is made for an Account, international Transfers initiated from the Account will be sent by Bank in the currency specified in Client's Payment Order (but note that funds may be converted to another currency by a subsequent intermediary bank or the beneficiary bank). If Client does not specify a currency for international Payment Orders, the Transfer will be processed in U.S. Dollars. If an Opt Out election is made for an Account, this election will apply to all Transfers from such Account, by any initiation method or channel. If Client desires to ensure that Bank executes an International Payment Order in a currency other than U.S. Dollars, then Client should denominate that International Payment Order in the desired currency.

d. Payment Protection - Bene-deduct (debit) Exemption. It is customary for correspondent banks (banks with which Truist has a relationship for the purpose of sending international Transfers) and/or additional intermediary banks which facilitate the delivery of Transfers to the beneficiary's bank to assess and deduct charges from the principal amount of the Transfer. If Client selects the Exemption for an Account per an applicable Wire Document, Transfers from the Account will be exempt from the deduction of charges by Bank's. However, note that an intermediary bank or the beneficiary's bank may still take a deduction from the payment to the beneficiary, so the Exemption selected for an Account may not prevent all deductions from the payment to the beneficiary. If the Exemption is selected for an Account, it will apply to all Transfers from such Account, by any initiation method or channel.

e. Conversion Cap. For foreign currency international Payment Orders that exceed an amount (the "Conversion Cap") set by Bank, Client must obtain a Contract ID before the Transfer can be processed. Contract IDs are offered at Bank's discretion and may not be available for all foreign currency Payment Orders. Client can obtain a Contract ID or request the current Conversion Cap amount by contacting Bank at the following numbers:

   i. For Retail PIN Wire Service: 844-4TRUIST / 844-487-8478

   ii. For all other Wire Services: 800-774-8179

14. Name and Account Number Inconsistency; Erroneous Instructions. Client acknowledges and agrees that Client is solely responsible for the accuracy of Payment Orders provided to Bank. If a Payment Order inconsistently describes the beneficiary, beneficiary's bank, or intermediary bank by name and number, payment might be made by the intermediary or beneficiary's bank on the basis of the number even if the number identifies a person or bank other than the named beneficiary or bank. Client shall be responsible for any loss associated with such inconsistency and agrees that its obligation to pay the amount of the Transfer to Bank is not excused in such circumstances.

15. Liability.

a. Duty of Reasonable Care. Bank shall exercise good faith and reasonable care in performing the Wire Services. Client shall exercise good faith and reasonable care in observing and maintaining security procedures, in communicating Payment Orders and Instructions to Bank and in reviewing Statements and Confirmations for errors. Client is responsible for ensuring the accuracy of all information contained in a Payment Order, and Bank has no duty whatsoever to verify the accuracy of any Payment Order, nor will Bank be liable for losses or damages arising out of Payment Orders containing inaccurate or incorrect information.

b. Limitation of Liability**.** Bank's liability for a Transfer shall be limited to errors or delays in the Transfer per applicable law and Bank shall not be liable in any case for any special, indirect, exemplary, or consequential damages (including lost profits) of any kind. Bank is not responsible for performance failure as a result of an interruption in transfer facilities, labor disputes, power failures, equipment malfunctions, suspension of payment by another bank, errors by another bank, refusal or delay by another bank to accept the Transfer, acts of war or terrorism, regulatory or emergency conditions, fire, earthquake, or other circumstances outside of Bank's control.

Client will hold Bank harmless (a) if Bank acts in accordance with Payment Orders and Instructions, including, but not limited to, amendments or cancellations; (b) if Bank attempts to recover funds upon Client's request; (c) for any loss resulting from the unauthorized access to or use of applicable security procedures; or (d) for any matters referenced in this Agreement for which Client has responsibility.

Except as otherwise required by applicable law, any damages or other compensation due Client resulting from Bank's negligence shall be limited to interest on the funds at issue at the federal funds rate paid by Bank at the close of business on each day the error or delay remains uncorrected; provided, however, if Bank is unable to recover the funds from the transferee who has no claim to all or any portion of the funds erroneously transferred as a result of the Bank's negligence, Bank shall be liable for Client's actual loss, not to exceed the amount of funds which Bank is unable to recover, plus interest at the rate described above.

16. Fees. Client shall pay all fees and charges which Bank may, from time to time, impose for the performance of Wire Services subject to this Agreement. In addition, Client shall reimburse Bank for all out-of-pocket expenses incurred by Bank in effecting Payment Orders and Instructions, including cancellations, amendments and attempted recoveries, and Client shall be responsible for payment of all fees and charges of each correspondent or intermediary bank which facilitates a Transfer or payment. It is customary that such fees and charges are assessed and withheld from the amount of the Transfer or if assessed to Bank, passed on to Client. Client hereby authorizes Bank to instruct any correspondent or intermediary bank to obtain payment of its charges by withholding such charges from the amount of the Transfer.

17. Notices. For Wire Services subject to the Truist Treasury Management Agreement, notices shall be provided pursuant to the notice provisions in that agreement. For Standing Order Wire, Drawdown Wire, Corporate Call, and Retail PIN, notices shall be provided pursuant to the notice provisions in the BSA or CBSA, as applicable.

18. Amendment and Termination. This Agreement may be amended by Bank from time to time by prior written notice to Client. Any use of Wire Services subject to this Agreement Client's receipt of the notice shall constitute acceptance of the terms of the amendment. Either party may terminate this Agreement by giving 30 days prior written notice to the other party. Bank may terminate this Agreement immediately, without prior notice to Client, if (a) the Account(s) has no annual activity or has been closed; or (b) in the good faith opinion of Bank, Client is involved in potentially illegal or unethical business practices or is financially unstable, or the prospect of Client's payment or performance has been impaired.

19. Miscellaneous**.** This Agreement shall be binding upon and inure to the benefit of the parties, their legal representatives, successors, and assigns, by merger or otherwise. If any provision of this Agreement shall be declared invalid or unenforceable, said provision shall be ineffective to the extent it is invalid, without in any way affecting the remaining provisions of this Agreement. In addition to the applicable law provisions of the BSA or CBSA, the rights, duties and liabilities of Bank and Client shall be subject to, and Client agrees to comply with, as applicable, federal laws, Federal Reserve Bank operating circulars, Federal Reserve Board regulations, Consumer Financial Protection Board regulations, regulations and requirements of the Clearing House Interbank Payments System (CHIPS) and/or the Society for World Interbank Financial Telecommunication (SWIFT).

Zero Balance Account Service

1. Description of Zero Balance Account Service. The Zero Balance Account ("ZBA") service allows Client to manage cash flow by aggregating debit and credit entries from one or more zero balance or "subsidiary" accounts to a master account on a daily basis.

2. Daily Posting and Funding. Designated subsidiary accounts, their associated master accounts, and any super master accounts (if any) will be reflected in the Treasury Request Confirmation for ZBA service. Client may designate a target ledger balance for a subsidiary account, and such designation will also be reflected in the Treasury Request Confirmation. At the end of each banking day, Bank will transfer all debit and credit entries that were posted to a subsidiary account that banking day to the master account associated with that subsidiary account, so that each subsidiary account will have a zero ledger balance (or the target ledger balance, if applicable) at the end of each banking day. Bank will post to the relevant master account a single entry equal to the net debit or credit activity in each subsidiary account. When Bank posts these entries to a master account, offsetting entries will also be posted to the relevant subsidiary account. Client agrees to maintain sufficient available balances at all times in each master account to cover any debit activity (and any target ledger balances) of all subsidiary accounts funded by that master account as well as any debits presented directly against that master account. At its option, Bank may pay, but is not obligated to pay checks, drafts, withdrawal requests or other debits presented against a master account or a subsidiary account unless the applicable master account contains sufficient funds. At its option, Bank may, but is not obligated to, return any debits presented against a subsidiary account in the event Bank reasonably believes that the applicable master account does contain sufficient funds. In the event payment of any debits presented against a subsidiary account results in an overdraft

in a master account, or if the master account does not contain sufficient funds to bring the balance of the subsidiary account(s) to zero at the end of a banking day, Client is obligated to immediately submit funds to Bank to repay any overdraft amount pursuant to the terms of the CBSA, without notice or demand. If Bank receives a writ of garnishment or levy seeking funds in a subsidiary account, Client agrees that Bank shall have the right, in its sole discretion, to (a) freeze and/or place a hold on any master or super master account(s) in an amount equal to the amount sought by the garnishor until the writ of garnishment is satisfied or in an amount as otherwise required by law, and/or (b) pay the full amount sought by the writ of garnishment using funds from any master or super master account(s); provided, further, that Bank may take these actions whether or not the ownership and/or designated representatives of the subsidiary account are the same as those for the master account. Regarding a garnishment or levy, Client further agrees that (c) Bank may collect its fees for garnishment or levy against any master, super master, or subsidiary account when the garnishment or levy is received and may offset these fees before honoring any garnishment or levy, and (d) Bank will not be liable for any hold or freeze placed on any master, super master, or subsidiary account.

3. Super Master Accounts. If Client has identified one or more “super master accounts”, any master account funded by the super master account will be treated as a subsidiary account of that super master account.

4. Duration and Changing of Options. Once Bank has implemented the ZBA service according to Client’s instructions, Bank will post the net amount of all debits and credits from each subsidiary account to the relevant master account in accordance with such instructions until (a) Client’s use of the ZBA service is terminated or (b) Client provides modified instructions to Bank and Bank has had had a reasonable time to act on such instructions.

HOW TO FIND PARTICIPATING EMPLOYERS

Use the E-Verify search tool to find employers who are currently enrolled in E-Verify. Your search will display the following information:

- **Employer name** – The name the employer used when they enrolled in E-Verify. This can be the business' legal name, a trade name, or an abbreviation.
- **Doing Business As (DBA) name** – The name an employer uses publicly. The public may see the DBA, but the employer may have used another name when they enrolled in E-Verify.
- **Account Status** – Indicates whether the account is currently enrolled or terminated.
- **Enrollment date** – The date the E-Verify Memorandum of Understanding is signed.
- **Termination Date** – The E-Verify Memorandum of Understanding termination date.
- **Workforce size** – Appears as long as the employer reported they have at least five employees.
- **Number of hiring sites** – The locations where employers hire employees and where they complete Form I-9.
- **Hiring site locations (by state)** – The geographic location(s) of hiring sites, by state, reported by the employer.

Parameters:

- USCIS updates the search tool data every quarter. However, employer status may be updated as needed.
- Employers report their own data at the time they enroll in E-Verify. The accuracy and completeness of the data depend on what was submitted by employers at the time of enrollment and as reported throughout the employer's relationship with E-Verify.
- Review Employer Data Parameters

Search

Business Name

truist bank

Primary Industry Type

Select Industry Type(s)

Hiring Site Locations (by state)

Florida ×

Account Status

- Any -

Items per page

10

SEARCH

Employer	Doing Business As	Account Status	Date Enrolled	Date Terminated	Workforce Size	Number of Hiring Sites	Hiring Site Locations (by state)
Truist Bank		Open	12/07/2020		1,000 to 2,499	1	FL

Showing 1 to 1 of 1 entries. CSV

CONTRACTOR E-VERIFY AFFIDAVIT

I hereby certify that Truist Bank [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 Truist Bank [insert contractor company name] proof of registration in the E-Verify system is attached to this Affidavit.

Print Name: Brian S Orth.

Date: 8/12/2022

STATE OF FLORIDA

COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 08-17-2022 (date) by Brian Orth (name of officer or agent, title of officer or agent) of Truist (name of corporation acknowledging), a FL (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced NA (type of identification) as identification.

[Notary Seal] Notary Public

Sarah Castellon

Name typed, printed or stamped

My Commission Expires: 11/14/2025

SARAH CASTELLON
Notary Public, State of Florida
Commission# HH 198321
My comm. expires Nov. 14, 2025

Legislation Details (With Text)

File #:	22-496	**Version:**	1	**Name:**	Food Vendor form for city events
Type:	Informational Item			**Status:**	Council Busines
File created:	8/12/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Seek Council approval on the addition of a requirement for compostable serving products for all food vendors at City events only. (Asst. to the CM/PIO)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Revised - Food Vendor application 8-12-22.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 12, 2022
Agenda Date: August 23, 2022
Prepared By: Samantha Senger, Assistant to the CM/Public Information Officer
Through: Stockton Whitten, City Manager
Requested Action:
Seek Council approval on the addition of a requirement for compostable serving products for all food vendors at City events only.

BACKGROUND:

The City of Cocoa hosts several community events throughout the year including but not limited to: Trash Bash, Arbor Day, Juneteenth, Memorial Day, Independence Day, Fall Festival, and Holiday Tree Lighting.

As part of the strategic priority and budget planning workshops, a priority was mentioned by Councilwoman Koss to move all City events to compostable products only. This would entail what food is served in or on at events including plates, utensils, bags, napkins, bottles, cans, etc.

Staff researched other local communities and spoke with current and potential vendors to discuss the impacts this change would have on our vendors. Many other local communities such as Indiatlantic and Melbourne Beach currently have similar requirements. Vendors had some concerns on the additional cost for these types of products but did do this to participate in other events in these other communities.

Staff is recommending that we add the following language to our food vendor application and agreement form:

- **It is the Vendor's responsibility to purchase and utilize compostable serving products only.** Food vendors shall

not utilize any single-use plastic products to serve food and/or beverages at City events. Single-use plastic products mean any plastic disposable product generally used only once, including but not limited to cups, straws, plates, coffee stirrers, soda bottles, food packaging, and utensils. The only exceptions are plastic water bottles, and plastic bags used for kettle corn or cotton candy. Recyclable water bottles or cans of water are preferred.

Based on feedback received from a long-time vendor, an exception was added to allow plastic bags for kettle corn and cotton candy. There currently is not a good alternative that will hold this type of product at this time. We can always make this adjustment in the future if needed. The other exception we allowed for was plastic water bottles due to the need to be able to sell water at our events. We did request that they be recyclable bottles or cans.

STRATEGIC PLAN CONNECTION:

Community Outreach and Engagement - Attracting a diverse array of special events.
Investment in Public Infrastructure - Invest in environmental stewardship.

Implementing a ban on most single-use plastics for city events will help the City become more environmentally friendly. Plastics are not generally biodegradable and can exacerbate the pollution problem. Many of the chemicals used to make plastic and Styrofoam can be toxic not only to the environment but to humans as well.

BUDGETARY IMPACT:

The fee to be a food vendor for city events will not change so there is no budgetary impact to make this adjustment.

PREVIOUS ACTION:

None.

RECOMMENDED MOTION:

Approval on the addition of a requirement for compostable serving products for all food vendors at City events only.

City of Cocoa Leisure Services
Special Event Food Vendor
Application and Agreement Form

Event: _____ **Location:** _____

Event Date and Time: _____ **Cost:** _____
(Per booth Space)

Set-up Time Start: _____ Set-up Time End: _____

Operation Time Start: _____ Operation Time End: _____

Breakdown Time Start: _____ Breakdown Time End: _____

VENDOR INFORMATION

Vendor Name: _____
Last *First* *M.I.*

Business Address: _____
Street Address *Unit #*

_____
City *State* *ZIP Code*

Phone: _____ Email _____

Name of Business: _____ State Tax ID: _____

Liability Insurance on File with Leisure Services? YES ☐ NO ☐

Number of Booth Spaces Requested _____

Electricity Needed (If available) YES ☐ NO ☐

Menu Items: _____

RULES, TERMS AND CONDITIONS

The Vendor agrees to exercise the utmost care in the use of City property. These restrictions are designed to ensure that City property will be left in equal or better condition than it was prior to the Event, as well as provide general rules and conditions relating to the use of City property. All vendors shall comply with all rules, terms and conditions in this application and agreement form ("Agreement"); no exceptions.

General Rules, Terms and Conditions:

- **Term:** The term of this Agreement shall commence upon written approval by the City and terminate when the Vendor has completed its respective obligations under this Agreement.
- **Use of City Property:** It is the intent of the City to authorize approved vendors to utilize City property during the Event.
- All tables, chairs, tents, extension cords, etc., needed to safely run and manage Vendor's operation must be furnished by the Vendor. Leisure Services will not provide any equipment needed.
- **Payment Methods Accepted:** Personal check, cashier's check, money order, or credit card.
- If electricity is not available, a generator may be utilized for power.
- Grease or other substances may NOT be poured down any drains, on the street, on the pavers, or in the grass or landscaping.
- A valid copy of the Business Tax Receipt and Certificate of Liability Insurance must be on file with the Leisure Services office prior to the date of the Event.

- **Insurance**: The Vendor shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to the City, a fully paid commercial general liability damage insurance policy against claims for death, personal injury, and property damage in or about the City property for the term of the Event. Such insurance policies shall be procured by the Vendor from a company licensed to do business in the state of Florida and acceptable to the City. These policies must protect the City, its officers, agents, employees, attorneys, the Event, and its contractors from any and all claims or damages to property and or bodily injury which may result from or be in connection with any of the operations carried on by the Vendor, list the City as an additional named insured, and provide for no deductible. The required insurance shall be evidenced by a Certificate of Insurance submitted to the Leisure Services manager, or designee, prior to the date of the Event. The commercial general liability policy must include minimum limits of One Million Dollars ($1,000,000) combined single limit, in respect of each occurrence, to include premises/operation, independent contractors, products/completed operations, broad form contractual and personal injury coverage. The City does not in any way represent that these types or amounts of insurance are sufficient or adequate to protect the Vendor's interest or liabilities but are merely minimums. A copy of all notices from the insurance company must be provided to the City within five (5) days of receipt. The insurance company shall be instructed to provide a thirty (30) day notice of cancellation to the City. The City may cancel this Agreement at any time if Vendor fails to comply with the insurance provisions described herein. If applicable, the Applicant shall also provide proof of worker's compensation insurance at the limits provided by the Florida Statutes.
- All food vendors are required to have all Florida Department of Health permits on hand at the Event and be prepared for any inspections by the Florida Department of Health. Food vendors that do not pass a Florida Department of Health inspection shall not operate at the Event. Refunds will not be issued to vendors unauthorized to operate at the Event due to failure to pass a Florida Department of Health inspection.
- All food vendors are required to pass an inspection by the City of Cocoa Fire Inspector prior to operating at the Event. If such an inspection does not occur, the food vendor shall not be permitted to operate at the Event.
- All booth spaces and surrounding areas must be cleaned of trash and personal items after the Event. All trash must be placed in the provided Waste Management dumpsters or green tote cans throughout the Event and may not be left by the public trash cans at any time.
- **It is the Vendor's responsibility to purchase and utilize compostable serving products only.** Food vendors shall not utilize any single-use plastic products to serve food and/or beverages at City events. Single-use plastic products mean any plastic disposable product generally used only once, including but not limited to cups, straws, plates, coffee stirrers, soda bottles, food packaging, and utensils. The only exceptions are plastic water bottles, and plastic bags used for kettle corn or cotton candy. Recyclable water bottles or cans of water are preferred.
- Glass bottles are prohibited.
- Alcohol is not permitted to be sold or distributed at any time unless separately authorized by the City in accordance with any relevant permitting or authorization procedures.
- Hot food preparation is prohibited on any grass areas and must be done on paved surfaces.
- Any vendor that does not adhere to the rules, terms and conditions of this Agreement may not be permitted to participate in future City special events and may be subject to fines related to damage caused.

RELEASE AND INDEMNIFICATION

Vendor agrees to the fullest extent permitted by law, to protect, defend, indemnify and hold harmless the City and its employees, agents, elected or appointed officials, attorneys and representatives from and against all claims, losses, damages, personal injuries (including but not limited to death), or liability (including reasonable attorney's fees), which directly or indirectly arises out of, or results from any act or failure to act of Vendor or any person authorized by Vendor to participate in the Event which in any way is related to Vendor's obligations under this Agreement or Vendor's participation in the Event.

The indemnification provided above shall obligate the Vendor to defend at its own expense or to provide for such defense, at the option of the City, as the case may be, of any and all claims and liability and all suits and actions of every name and description that may be brought against the City or its employees, officers, and attorneys which may arise or result from the Vendor's obligations under this Agreement. In all events 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 this indemnification provided herein. This indemnification paragraph shall survive the termination of this Agreement until such time as all pending claims between the parties have been settled, or if no such pending claims, until such time as all applicable statute of limitation time periods have expired. Vendor has read, fully understands, and agrees to the rules, terms and conditions, and the release and indemnification, of this Agreement. Vendor certifies that all information provided herein is accurate.

Signature: _____ Date: _____

Printed Name: _____

FOR OFFICE USE ONLY

Vendor Payment Amount: _____ **Check #:** _____ Vendor Event Location: _____

Leisure Services Employee Initials: _____ Date Received: _____ Receipt #: _____

Legislation Details (With Text)

File #:	22-503	**Version:**	2	**Name:**	
Type:	Contract			**Status:**	Council Busines
File created:	8/16/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Consideration of a Pre-Development Tree Mitigation Contribution Deferral Agreement for the Orchid Lake development, a 90-unit affordable, multifamily rental housing development proposed to be located on the southwest corner of Michigan Avenue and University Lane, which will defer and eliminate or reduce the Tree Mitigation Contribution required by the City Code for failure to provide tree replacements on site. (City Attorney)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Orchid Lake Pre-Development Tree Mitigation Deferral Agreement - 8-18-2022.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 17, 2022
Agenda Date: August 23, 2022
Prepared By: Kristin N. Eick, Assistant City Attorney
Through: City Manager Stockton Whitten
Requested Action:
Consideration of a Pre-Development Tree Mitigation Contribution Deferral Agreement for the Orchid Lake development, a 90-unit affordable, multifamily rental housing development proposed to be located on the southwest corner of Michigan Avenue and University Lane, which will defer and eliminate or reduce the Tree Mitigation Contribution required by the City Code for failure to provide tree replacements on site.

BACKGROUND:

The City Attorney's Office has prepared a proposed Pre-Development Tree Mitigation Contribution Deferral Agreement ("Agreement") for the City Council's consideration for the proposed Orchid Lake development, a 90-unit affordable, multifamily rental housing anticipated to be located on the southwest corner of Michigan Avenue and University Lane.

The City Council previously approved Resolution 2022-032, at its April 12, 2022 meeting, authorizing an affordable housing land use on the Property, which is currently zoned Commercial (CG), in accordance with Section 166.04151, Florida Statues, subject to the zoning standards and requirements of the RU-2-15 zoning district. In addition, at that meeting the City Council accepted the Petition for the affordable housing land use, explaining the Property will operate as deed restricted affordable housing under the Housing Credit, SAIL, ELI, and NHTF programs administered by Florida

Housing Finance Corporation and will require the Developer to set aside three (3) units for households earning 22% or less of Area Median Income (AMI), fourteen (14) (15%) of the units for households earning 33% or less of the AMI, and seventy six (76) (85%) of the units for households earning 60% or less of the AMI. In addition, the developer will partner with Housing for Homeless, Inc., a Brevard County, Florida-based 501(c)(3) nonprofit organization , which will provide case management and on-site services at Orchid Lake at no cost to the residents. The Orchid Lake developers have been preparing their site plan for the affordable housing complex, and the site plan is anticipated to be considered at the September 7, 2022 Planning and Zoning Board meeting. The site plan has not yet been approved.

In anticipation of submitting the site plan to the Planning and Zoning Board for review, Orchid Lake's Landscape Architect prepared tree removal and landscaping plans. These plans indicate that while Orchid Lake intends to replace approximately 300 trees (1,056 inches) that are being removed on-site, there will still be a deficit of 709 trees (approx. 2,161 inches) that are not being replaced. This would ordinarily require a contribution to the City's Arbor Mitigation Fund in an amount determined by the current wholesale market value, as determined by the average of three (3) professional quotes, of the required replacement trees which cannot reasonably be accommodated on site, plus installation and two-year maintenance costs to the city. While Orchid Lake did not obtain three professional quotes, their Landscape Architect prepared an estimate, dated April 1, 2022, of the value of the trees not being replaced, plus the required installation and maintenance costs. The Tree Mitigation Contribution was estimated at $325,851.00.

Given the nature of the Orchid Lake development as an affordable housing community, the developer has requested that the City Council consider the attached Agreement, which would potentially eliminate or reduce the Tree Mitigation Contribution. Under the Agreement, no Tree Mitigation Contribution will ever be required for the project should the property continue to be used as an affordable housing community in accordance with the Petition for the 20 years immediately following the issuance of the certificate of occupancy. However, if the Property ceases to be used as an affordable housing community in accordance with the Petition during the first 10 years immediately following the issuance of the certificate of occupancy, the entire amount will become immediately due and payable. Further, if during years 11-20, the Property ceases to be used as an affordable housing community in accordance with the Petition, a reduced Tree Mitigation Contribution amount will become immediately due and payable.

STRATEGIC PLAN CONNECTION:

n/a

BUDGETARY IMPACT:

Budgeted	N/A
If not budgeted, is amendment/transfer attached?	N/A

Amount Requested	$
Account Number	_
Account Name	_

powered by Legistar™

Source of Funds: ____State Revolving Loan
____ Other Loan Source:_
____ Grant Source:_
____ Bond:_
____ Reserves Source:_
____ Transfer Acct #:_

If a P.O. Change Order is involved please complete the following:

Change Order Amount $_

Original Purchase Order _
Original P.O. Amount _$
For this Agenda Item note Prior Change Order Information:
Total number of change orders to date _
Total amount in change orders to date _$

PREVIOUS ACTION:

April 12, 2022 - Approved Resolution 2022-032, authorizing an affordable housing land use and accepting Petition

RECOMMENDED MOTION:
Approve the Pre-Development Tree Mitigation Contribution Deferral Agreement for the Orchid Lake development.

PRE-DEVELOPMENT TREE MITIGATION CONTRIBUTION DEFERRAL AGREEMENT

THIS PRE-DEVELOPMENT TREE MITIGATION CONTRIBUTION DEFERRAL AGREEMENT ("**Agreement")** is made and entered into this_____ day of _____, 202_, **("Effective Date")** by and between the **CITY OF COCOA, FLORIDA,** a Florida municipal corporation, located at 65 Stone Street, Cocoa, Florida 32922 **("City"),** and **HTG ORCHID LAKE, LTD,** a Florida limited partnership, with an address of c/o Housing Trust Group, 3225 Aviation Ave, 6th Floor, Miami, Florida 10105 **("Developer").**

RECITALS:

WHEREAS, Developer (or another entity on Developer's behalf) has entered into a contract pursuant to which Developer will purchase approximately 7.63 acres, more or less, of real property located on the southwest corner of Michigan Avenue and University Ln, Cocoa, Florida 32922, with Tax Parcel ID 24-36-20-00-289, and more particularly described herein in "Exhibit A" (the "Property"); and

WHEREAS, Developer is seeking to develop a 90-unit affordable housing multifamily rental development and related facilities (the "Project") and has requested a pre-development commitment from the City Council regarding the future tree mitigation contribution required by the City Code subject to meeting certain conditions set forth hereunder; and

WHEREAS, the proposed Project will create new affordable and attainable housing within the City of Cocoa and be a significant economic catalyst to Brevard County including, but not limited to, enhancing the local supply of safe, affordable, and attainable housing; and

WHEREAS, on April 12, 2022, the City Council previously approved Resolution 2022-032, authorizing an affordable housing land use on the Property, which is currently zoned Commercial (CG), in accordance with Section 166.04151, Florida Statues, subject to the zoning standards and requirements of the RU-2-15 zoning district and obtaining Final Site Plan approval; and

WHEREAS, the City Council accepted the Petition filed with the City by the Housing Trust Group in seeking approval of Resolution 2022-032, ensuring that the Property will operate as deed restricted affordable housing under the Housing Credit, SAIL, ELI, and NHTF programs administered by Florida Housing Finance Corporation and will require the Developer to set aside three (3) units for households earning 22% or less of Area Median Income (AMI), fourteen (14) (15%) of the units for households earning 33% or less of the AMI, and seventy three (73) (85%) of the units for households earning 60% or less of the AMI; and

WHEREAS, the Developer shall partner with the Housing for Homeless, Inc., a Brevard County, Florida-based 501(c)(3) nonprofit organization , which will provide case management and on-site services at Orchid Lake at no cost to the residents, which will focus on teaching skills to ensure self-sufficiency; and

WHEREAS, on September 7, 2022, the City's Planning & Zoning Board is anticipated to consider the Developer's Site Plan application, which is dated _____08/01/2022_____ and on file with the City of Cocoa (the "Site Plan"); and

WHEREAS, the City Council desires to approve this Agreement at the request of the Developer prior to the Developer (1) acquiring the Property; (2) obtaining a final development permit on their pending Site Plan application by the Planning & Zoning Board; (3) obtaining grading and clearing

permits; and (4) obtaining building permits from the City's Building Official to assist the Developer with planning the development of the Property; and

WHEREAS, the City Council finds and declares that this Agreement serves a public purpose and serves the public health, safety and welfare of the citizens and visitors of Cocoa, which includes promotion of high quality safe, affordable and attainable housing, and growth and economic development.

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 true and correct and are hereby incorporated herein by this reference.

2.0 Condition Precedent - Acquisition of Property by Developer. Developer represents and warrants to the City that Developer, or another entity on Developer's behalf (which entity will assign such contract to Developer), has entered into a binding written contract to purchase the Property ("Purchase Agreement") and that Developer intends to expeditiously pursue the completion of the closing on the Property following the Effective Date of this Agreement. Based on this representation and warranty to the City, Developer further represents and warrants to the City that it is empowered to negotiate and enter into this Agreement. However, the acquisition of fee title to the Property by the Developer shall be a condition precedent to the City issuing any site work permits, including building permits or clearing and grading permits. As such, Developer shall keep the City fully apprised of the status of said closing and shall faithfully and expeditiously complete the closing within ninety (90) days after the Effective Date of this Agreement ("Closing Date"). If Developer or its affiliate fails to complete the closing by the Closing Date, the City Manager shall have the right, in his sole discretion and by written notice, to either extend the time to complete the closing for a reasonable time period not to exceed six (6) months or as otherwise authorized by the City Council to allow Developer to complete the closing, or terminate this Agreement with thirty (30) days prior notice (provided that if the closing occurs within such 30-day period, such termination will be null and void).

3.0 Project Description. Developer shall, at its expense, seek development permits with the City to construct a 90-unit affordable housing multifamily rental development and related facilities to be designed, permitted, and constructed in accordance with the Petition accepted by the City Council under Resolution 2022-032 and a Site Plan (including tree removal and land clearing) approved by the Planning & Zoning Board.

4.0 Contingent Tree Mitigation Contribution Deferral.

A. Conditions Precedent. The Developer and City acknowledge that, at the time of this Agreement's approval and execution, the Site Plan has not yet been approved by the City's Planning and Zoning Board. The tree mitigation contribution deferral afforded by this Agreement shall be contingent upon: (1) the Planning and Zoning Board approving the Site Plan within six (6) months of the Effective Date of this Agreement; and (2) the City's issuance of building permits for the Project and the Developer substantially commencing vertical construction of the Project, which shall at minimum include building foundations, within two (2) years of the Effective Date of this Agreement. If the Developer fails to obtain Site Plan approval from the City or fails to obtain building permits and substantially commence vertical construction of the Project within the aforesaid six (6) months or two (2) years, respectively, the City shall have the right to declare the Developer in default pursuant to Paragraph 20.0 of this Agreement. If the Developer does not cure the default within the cure period, the City shall have the right, but not obligation to, terminate this Agreement without penalty and/or immediately take any and all actions necessary to collect

the entire tree mitigation contribution to the extent the trees have been removed. Further, to the extent that the Developer violates the land clearing performance requirements set forth in Section 18 of this Agreement, or fails or ceases to use the Property as an affordable housing community in accordance with the terms of said Petition during the ten (10) years immediately following the issuance of a certificate of occupancy for the Project, the entire remaining tree mitigation contribution as set forth herein shall become immediately due and payable to the City.

B. Tree Mitigation Deferral Schedule. Based on the proposed Site Plan being presented to the Planning & Zoning Board for consideration by the Developer, as of the Effective Date of this Agreement, the City Council hereby agrees to the following payment schedule for the tree mitigation contribution payments, notwithstanding any other conflicting City Code provision, provided that the Site Plan is approved by the Planning and Zoning Board. A tree mitigation contribution in the amount of **three-hundred and twenty-five thousand eight-hundred and fifty-one dollars ($325,851.00)** ("Tree Mitigation Contribution") shall be made as follows: No payments for ten (10) years following the date of the issuance of a certificate of occupancy, provided that Developer continues to use the Property as an affordable housing community in accordance with the terms of the Petition; thereafter, for each year the Developer continues to use the Property as an affordable housing community in accordance with the terms of the Petition until twenty (20) years have elapsed since the issuance of a certificate of occupancy, the Tree Mitigation Contribution shall be reduced in ten (10) equal annual installments of **$32,585.10**. If, by the end of the twentieth year following the issuance of a certificate of occupancy, the Developer still utilizes the Property as an affordable housing community in accordance with the terms of the Petition, the Tree Mitigation Contribution shall be forgiven, and the Developer shall have no obligation to pay the Tree Mitigation Contribution. Should the Developer fail or cease to use the Property as an affordable housing community in accordance with the terms of said Petition during any year following the completion of year 10, the following payment schedule will be enforced, except that adjustments may be made in accordance with Paragraph 4.0.C below:

Year	Balance to be paid if Property ceases to be used as affordable housing
11	$293,265.90
12	$260,680.80
13	$228,095.70
14	$195,510.60
15	$162,925.50
16	$130,340.40
17	$97,755.30
18	$65,170.20
19	$32,585.10
20	$0

Developer and the City agree that the Tree Mitigation Contribution described in this Paragraph has been calculated based on the application of the City's existing tree removal and replacement regulations contained in Appendix A, Zoning, Article XIII, Section 22, except that the City Council herein accepts the presentation by the Developer of only one professional quote determining the current wholesale market value of the required replacement trees that cannot be accommodated on site, plus installation and two-year maintenance costs. The City shall not require the presentation of three professional tree replacement quotes

to calculate the Tree Mitigation Contribution. The Tree Mitigation Contribution shall otherwise be calculated in accordance with the City Code requirements. Tree removal, land clearing and required tree replacements shall be in accordance with the approved Site Plan.

C. Recalculation of Tree Mitigation Contribution. The City shall recalculate and adjust the Tree Mitigation Contribution in two circumstances. First, a recalculation and adjustment of the Tree Mitigation Contribution shall occur should the Planning and Zoning Board approve an amended version of the Site Plan. Adjustments may increase or decrease the Tree Mitigation Contribution, depending upon the amendments to the Site Plan approved by the Planning and Zoning Board. Should the Developer make any further amendments to the proposed landscape plan contained in the Site Plan subsequent to the Effective Date of this Agreement, a new professional tree replacement quote shall be obtained and presented to the City Manager for approval. The adjustments to the Tree Mitigation Contribution shall be based upon the accepted professional tree replacement quote. Second, to the extent that the City Code, Appendix A - Zoning, Article XIII, Section 22 Landscape Requirements, is amended prior to the end of the nineteenth year following the issuance of the certificate of occupancy such that the total amount of the Tree Mitigation Contribution would be reduced under the amendment, the Developer may request, in writing, that the City Manager or his or her designee recalculate and decrease the Tree Mitigation Contribution. Recalculations authorized in this Paragraph may be administratively granted without further approval of the City Council. Notwithstanding the foregoing, the City shall not issue refunds for any Tree Mitigation Contribution payments paid prior to the adoption of an amendment to the City Code.

5.0 **Representations of the Parties.** The City and Developer hereby each represent and warrant to the other that it has the power and authority to execute, deliver and perform the terms and provisions of this Agreement and has taken all necessary action to authorize the execution, delivery and performance of this Agreement. This Agreement will, when duly executed and delivered by the City and Developer, constitute a legal, valid and binding obligation enforceable against the parties hereto. Upon acquisition of the Property by the Developer and the recording of this Agreement in the Public Records of Brevard County, Florida, the Agreement shall be a binding obligation upon the Property in accordance with the terms and conditions of this Agreement. Developer represents that it has voluntarily and willfully executed this Agreement for purposes of binding himself and the Property to the terms and conditions set forth in this Agreement.

6.0 **Applicable Law; Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The venue of any litigation arising out of this Agreement shall be in Brevard County, Florida or, for federal court actions, in Orlando, Florida.

7.0 **Amendments.** This Agreement shall not be modified or amended except by written agreement duly executed by both parties hereto (or their successors or assigns) and approved by the City Council.

8.0 **Entire Agreement; Exhibits.** This Agreement and all attached exhibits hereto supersede any other agreement, oral or written, regarding the Property and contain the entire agreement between the City and Developer as to the subject matter hereof. The Exhibits attached hereto and referenced herein are hereby fully incorporated herein by this reference.

9.0 **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.

10.0 **Effective Date.** This Agreement shall become effective upon approval by the City Council and execution of this Agreement by both parties hereto.

11.0 **Recordation.** Upon full execution by the Parties and the closing required by Paragraph 2.0, this Agreement shall be recorded in the Public Records of Brevard County, Florida by the City and shall thereafter be a binding obligation upon the Property and shall run with title to the same.

12.0 **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 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.

13.0 **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 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 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 the sum of three hundred thousand dollars ($300,000.00).

14.0 **City's Police Power.** Developer agrees and acknowledges that 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.

15.0 **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 to this Agreement in the event of a dispute between the parties.

16.0 **Third-Party Rights.** This Agreement is not a third-party beneficiary contract and shall not in any way whatsoever create any rights on behalf of any third party.

17.0 **Land Clearing Performance.** The parties agree that if Developer clears the Property of trees, and later fails to substantially commence the vertical construction of the 90-unit affordable housing multifamily rental development and related facilities within a period of two (2) years of the Effective Date of this Agreement, Developer shall pay the City the tree bank contribution in the amount of $325,851.00 (or as otherwise adjusted in accordance with the terms of this Agreement), and Developer shall comply with the seeding and/or mulching requirements to prevent erosion and sedimentation on the Property as set forth in Appendix A Zoning, Article XIII, Sec. 22(E)(5) of the City Code.

18.0 **Attorney's Fees.** In connection with any arbitration or litigation arising out of this Agreement, each party shall be responsible for their own attorney's fees and costs, except that Developer shall promptly pay to City all costs and expenses of collection, including reasonable attorneys' fees, with respect to any part of the Tree Mitigation Contribution herein required by Developer to be paid, which may be sustained or incurred by the City, after the date the same or any part thereof, becomes due.

19.0 **Development Permits.** Nothing herein shall limit the City's authority to grant or deny any development permit applications or requests subsequent to the Effective Date of this Agreement. The

failure of this Agreement to address any particular City, County, State and/or Federal permit, condition, term or restriction shall not relieve Developer or the City of the necessity of complying with the law governing said permitting requirement, condition, term or restriction. Without imposing any limitation on the City's police powers, the City reserves the right to withhold, suspend or terminate any and all certificates of occupancy for any building, trailer, structure or unit if Developer is in breach of any term and condition of this Agreement beyond the expiration of all applicable notice and cure periods hereunder.

20.0 **Default.** 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, injunctive relief and termination of this Agreement. 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 the nature of the default is such that it cannot reasonably be cured within thirty (30) days, then the cure period shall be deemed extended so long as the defaulting party commences the cure thereof within such period and thereafter diligently pursues such cure to completion.

21.0 **Termination.** In addition to those circumstances allowing termination as already provided herein, the City shall have the unconditional right, but not obligation, to terminate this Agreement, without notice or penalty, if Developer fails to receive building permits and substantially commence vertical construction of the Project, which shall at minimum include building foundations, within two (2) years of the Effective Date of this Agreement. In addition, the City shall have the right, but not obligation, to terminate the Agreement if Developer permanently abandons construction of the Project, provided, however, the City shall first deliver written notice and an opportunity to cure to the defaulting party as set forth in Paragraph 20.0 above. If the City terminates this Agreement, the City shall record a notice of termination against the Property in the public records of Brevard County, Florida. This Agreement may otherwise be terminated by mutual written agreement of the Parties.

22.0 **Indemnification and Hold Harmless.** As between the City and Developer, Developer shall be solely responsible for designing, permitting, constructing, operating and maintaining this Project. As such, Developer hereby agrees to indemnify, release, and hold harmless the City and its elected officials, employees and attorneys from and against all claims, losses, damages, personal injuries (including, but not limited to, death), or liability (including reasonable attorney's fees and costs through all appellate proceedings), directly or indirectly arising from, out of, or caused by Developer and Developer's contractor's and subcontractor's performance of design, permit and construction activities in furtherance of constructing the Project under this Agreement and the operation and maintenance of the Project thereafter; provided, however, that the foregoing indemnification obligation shall not include matters resulting from the acts or omissions of the City, nor the gross negligence or willful misconduct of the City. This indemnification shall survive the termination of this Agreement.

23.0 **Force Majeure.** The parties agree that in the event that the failure by either party to accomplish any action required hereunder within a specified time period ("Time Period") constitutes a default under the terms of this Agreement and, if any such failure is due to any acts of God, acts of government authority (other than the City's own acts, if the City is claiming the benefit of this Section 23.0), acts of public enemy or war, riots, civil disturbances, power failure, shortages of labor or materials, pandemics, quarantines and "stay-at- home" orders (other than the City's own acts, if the City is claiming the benefit of this Section 23.0), injunction or other court proceedings beyond the control of such party, or severe adverse weather conditions ("Uncontrollable Event"), then, notwithstanding any provision of this Agreement to the contrary, that failure shall not constitute a default under this Agreement and any Time Period proscribed hereunder shall be extended by the amount of time that such party was unable to perform

solely due to the Uncontrollable Event. The extended time period shall be agreed to in writing by the parties and said agreement shall not be unreasonably withheld by either party.

24.0 **Notice.** Whenever either party desires to give notice to the other, notice shall be sent by hand delivery or certified mail, return receipt requested, and shall be sent to:

For the City:
Stockton Whitten
City Manager
City of Cocoa
65 Stone Street
Cocoa, FL 32922

And a copy to:

Anthony A. Garganese, City Attorney
Garganese, Weiss, D'Agresta & Salzman, P.A.
111 N. Orange Avenue, Suite 2000
Orlando, Florida 32802

For Developer:
HTG Orchid Lake, Ltd.
3225 Aviation Ave, 6th Floor
Coconut Grove, FL 33133

With a copy to:
Housing for Homeless, Inc.
4087 S. US 1, Suite 3
Rockledge, FL 32955

And a copy to:
Kimberly Bonder Rezanka
Lacey Lyons Rezanka
1290 U.S. Highway 1, Suite 201
Rockledge, FL 32955

Either party may freely modify their respective contact person and address contained in this Paragraph by providing written notice of the modification to the other party. Any Notice given as provided herein shall be deemed received as follows: if delivered by personal service, on the date so delivered; and if mailed, on the third business day after mailing.

25.0 **Assignment.** This Agreement shall automatically be binding upon and shall inure to the benefit of the City and Developer and their respective successors and assigns. However, prior to completing the construction of the Project and reaching final build-out of the Project (as evidenced by issuance of a certificate of occupancy for the Project), the Developer shall not assign this Agreement without the prior written consent of the City, which may be withheld for any reason in the sole discretion of the City. Should the Developer sell or convey the Property, except to a parent, subsidiary, or affiliated entity in which Developer or its affiliates are members or interest holders, prior to completing the construction of the Project and reaching final build-out (as evidenced by issuance of a certificate of occupancy for the Project), the City Council may terminate this Agreement and the entire remaining Tree Mitigation Contribution shall become

immediately due and payable.

Notwithstanding the foregoing, Developer shall be entitled to assign its rights and obligations under this Agreement, at any time and without the prior written consent of the City, to a parent, subsidiary, or affiliated entity in which Developer or its affiliates are members or interest holders without City consent, provided that the City is given notice of such assignment in accordance with Paragraph 24.0 herein. Any assignment authorized by this subparagraph shall require the assignee to be a formal signatory to this Agreement and fully assume all of Developer's obligations, commitments, representations, and warranties under this Agreement, with the exception that the obligations, commitments, representations, and warranties contained herein shall automatically be binding on successors in interest to the Property.

26.0 **Compliance with Laws; Planning & Zoning Board Site Plan Conditions.** As between the City and Developer, Developer shall be responsible for complying with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority regarding the construction, location and continued operation of its business within the City of Cocoa. As between the City and Developer, Developer shall also be responsible for complying with all conditions of Site Plan approval imposed by the Planning & Zoning Board.

27.0 **Waiver.** No failure to insist on the prompt performance by Developer of its obligations under this Agreement shall be construed as a waiver by the City of its rights to demand performance. Further, any waiver by the City of any breach or violation of Developer's obligations under this Agreement shall not be construed as a continuing waiver or consent to any subsequent breach or violation or impede the City's ability to enforce the terms of this Agreement.

28.0 **Anti-Corruption.** In entering into this Agreement the City has not violated, and in implementing this Agreement the City shall not violate, or knowingly permit anyone to violate, any applicable laws or regulations pertaining to anti-corruption or bribery.

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

Signed, sealed and delivered in the presence of the following witnesses:

City of Cocoa

By: _____
Michael C. Blake, Mayor

Date: _____

_____
Signature of Witness

_____
Printed Name of Witness

_____
Signature of Witness

_____
Printed Name of Witness

APPROVED AS TO FORM

ATTEST:

By: _____
Carie Shealy, City Clerk

By: _____
Anthony A. Garganese, City Attorney

CITY SEAL

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me by means of (__) physical presence or (_) online notarization, this ___ day of _____, 2022, by Michael C. Blake, the Mayor of the City of Cocoa, on behalf of the City, who is personally known to me or produced _____as identification.

(NOTARY SEAL)

_____
(Notary Public Signature)

_____
(Print Name)
Notary Public, State of

_____

_____
Commission No.:

_____

_____
My Commission Expires: _____

HTG Orchid Lake, Ltd.
a Florida limited partnership

_____
Witness
Printed Name:

Housing for Homeless, Inc.
a Florida not for profit corporation,
its General Partner

_____
Witness
Printed Name:

_____
Rob Cramp, Executive Director

State of Florida
County of Brevard Dade

The foregoing instrument was acknowledged before me by means of [_] physical presence or [_] online notarization, this ___ day of _____, 20___ by _____ who [_] is personally known or [_] has produced a driver's license as identification.

[Seal]

_____
Notary Public
Print Name:
My Commission Expires:

EXHIBIT A

A parcel of land lying in Section 20, Township 24 South, Range 36 East, Brevard County, Florida, being more particularly described as follows: Commence at a Florida Department of Transportation Marker monumenting the Northwest corner of said Section 20, and run S. 00 degrees 12'00"E., along the West line of said Section, a distance of 524.59 feet to a point on the Westerly extension of the Southerly Right of Way line of Michigan Avenue (a 100 foot wide right of way): thence N. 72 degrees 46'50"E., along said Westerly extension and along said Southerly right of way line, a distance of 298.05 feet to the Point of Beginning: Thence continue N. 72 degrees 46'50"E., along said right of way line, a distance of 614.11 feet to a point on the West Right of Way line of University Lane (a 60 foot wide right of way); thence S. 00 degrees 11'08"E., along said West right of way line, a distance of 551.38 feet to the point of curvature of a 230.00 foot radius curve to the left; thence Southerly along the arc of said curve and along said right of way line, thru a central angle of 13 degrees 37'53", a distance of 54.72 feet to the Northeast corner of "College Oaks Condominium", Phases I and 11, recorded in O.R. 2411, page 880 and O.R. 2424, page 1345 of the public records of Brevard County, Florida; thence S. 89 degrees 48'00"W., along the North line of said "College Oaks Condominium" Phases I and II, a distance of 338.54 feet to the Northwest corner thereof; thence S. 00 degrees 12'00"E., along the West line thereof, a distance of 249.00 feet to the Northeast corner of lands described in O.R. 1555, page 558 of said public records; thence S. 89 degrees 48'00"W., along the North line of said lands, a distance of 100.00 feet to the Northwest corner thereof.; thence S. 00 degrees 12'00"E., along the West line of said lands, a distance of 100.00 feet to the Southwest corner of lands described in O.R. 1555, page 558, said point lying 1.00 foot north, by right angle measurement, of the North right of way line of University Lane (a 60 foot wide right of way); thence S. 89 degrees 48'00"W., parallel with and 1.00 foot distant North from said North right of way line, a distance of 29.00 feet; thence N. 00 degrees 12'00"W., a distance of 387.00 feet to the Northeast corner of lands described in O.R. 4259, page 2968; thence S. 89 degrees 48'00"W., a distance of 121.00 feet to a point on the East line of lands described in O.R. 3395, page 3787 of said public records; thence N. 00 degrees 12'00"W., along said East line, a distance of 113.00 feet to the Northeast corner of said lands; thence S. 89 degrees 48'00"W., along the North line of said lands, a distance of 5.00 feet to the Southeast corner of lands described in O.R. 2862, page 2913 of said public records; thence N. 00 degrees 12'00"W., along the East line of said lands, a distance of 274.84 feet to the Point of Beginning.

Legislation Details (With Text)

File #:	22-485	**Version:**	1	**Name:**	
Type:	Resolution			**Status:**	City Business
File created:	8/10/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Approve the Final Assessment Resolution 2022-078 for Stormwater Utility Services, Fiscal Year 2023. (Finance Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	2022-078 Final Stormwater Resolution.pdf Affidavit - SW Notice.pdf Stormwater Ad Proof.pdf CERTIFICATE to non-ad valorem assessment roll.pdf Stantec Final Report Stormwater.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 10, 2022
Agenda Date: August 23, 2022
Prepared By: Colleen Campbell, MBA, Senior Budget Analyst
Through: Rebecca Bowman, MBA, CGFO, CGFM, Finance Director
Requested Action:
Approve the Final Assessment Resolution 2022-078 for Stormwater Utility Services, Fiscal Year 2023.

BACKGROUND:

In 1992, the City of Cocoa established a Stormwater Utility Fee (City Ordinance, Sec. 22-85), to fund operating and capital projects and to maintain the City's drainage, ditches, swales, piping, inlets, manholes, and retention/detention ponds. At that time, a complete evaluation of all pervious and impervious surfaces, on non-residential and undisturbed parcels within the City limits, resulted in the development of a calculation inclusive of both surfaces. Residential properties assigned a Single-Family Unit (SFU) rate, for parcels, under 5 acres and residential properties over 5 acres were inclusive of a pervious surface component and multi-family residential units assigned the (SFU) rate per unit.

December of 2018, the City contracted with Stantec Consulting, to develop a 10-year financial plan for the Stormwater Fund. City Staff provided our consultant with audited FY 2018 financial information and the amended FY 2019 budget, to assist with the 10-year financial plan modeling. Mead and Hunt, one of the City's engineering firms, was simultaneously evaluating capital and water

quality needs and developing a 10-year work plan for the stormwater utility, including new regulatory requirements for the Indian River Lagoon.

At the May 14, 2019 Stormwater Utility Workshop, Stantec presented to City Council a change in methodology on the calculation and collection of fees for the Stormwater Utility. Industry supports basing Stormwater rates on impervious surface only, and not including pervious surface in the calculation, which is a complete departure from the current methodology in our Utility database. A comprehensive evaluation of the impervious surface, utilizing the Brevard County Property Appraisers Data, on all non-residential parcels inside the City limits of Cocoa, presented to City Council at this workshop. Also presented to City Council was the average impervious surface for residential properties. At the Workshop, the direction from City Council was to also validate all residential properties impervious square surface, and develop a more equitable tiered rate structure.

During the workshop, a discussion on the current method of collection ensued as there are two primary issues using the Utility Fee method of collection. A shortfall in revenue, due to vacancies/turn-over of commercial and residential properties, creating inactive utility accounts not billing for stormwater service, and the mapping of a parcel with a utility account. Example: A larger commercial parcel (strip-mall) may have ten (10) utility accounts associated with it. It is challenging and not always equitable, to assign a utility fee to each unit. In addition, if the units are vacant, the parcel is not paying for its share of the stormwater benefit they are receiving. Direction from City Council was to continue to move forward with the Uniform Method of Collection as an Assessment, verses staying with the Utility Fee method.

On June 26, 2019, the first reading of Ordinance No. 10-2019, Home Rule Stormwater Special Assessment was presented to City Council, to utilize special assessment procedures. The Ordinance approved by City Council and the second and final reading held on and approved, July 10, 2019.

On August 28, 2019, an Initial Assessment Resolution No. 2019-069, was approved by City Council as required by Ordinance. After the approval of the Initial Assessment Resolution, a Public Hearing was held on September 11, 2019, in accordance with the Ordinance and Florida Statues, for the purposes of formally adopting the Final Assessment Resolution No. 2019-071. At this time, the Stormwater rates were removed from the Utility Bills September 30, 2019.

At the July 8, 2022 Budget Workshop, City Council approved the recommendation by Stantec and City Staff, to build in a 4.5% increase to Stormwater Rates within the FY 2023 Budget. Per Ordinance, it is required that the City Council first approve a Preliminary Assessment Resolution, included with this agenda. After the approval of the Preliminary Assessment Resolution, the City Council is required to hold a Public Hearing, in accordance with the Ordinance and Florida Statutes, for purposes of adopting a Final Assessment Resolution formally approving the stormwater assessment rates. The Final Assessment Hearing will be held on August 23rd, 2022 at 6:00P.M., in City Council Chambers.

The current Fiscal Year 2022 stormwater assessment rates, adopted by City Council last year are as follows:

FY 2022 Assessment Rates for Single-Family Parcels (up to three units)		
Tier 1: 400 - 2,300 sq. ft. of impervious area	Tier 2: 2,400 - 4,400 sq. ft. of impervious area	Tier 3: Greater than 4,400 sq. ft. of impervious area

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$81.96	$126.10	$219.42

The Proposed Fiscal Year 2023 Rates, inclusive of a 4.5% increase are as follows:

FY 2023 Assessment Rates for Single-Family Parcels (up to three units)		
Tier 1: 400 - 2,300 sq. ft. of impervious area	Tier 2: 2,400 - 4,400 sq. ft. of impervious area	Tier 3: Greater than 4,400 sq. ft. of impervious area
$85.65	$131.77	$229.29

The final approved rates are submitted to the Brevard County Tax Collectors for the purpose of collecting the stormwater assessment on the annual non-ad valorem assessment portion of the 2022 annual property tax bill, no later than September 15, 2022.

For non-single-family parcels, each parcel is assigned a number of Equivalent Residential Units (ERUs) that was calculated based on the measured amount of impervious area on the parcel rounded down to the nearest hundred sq. ft. divided by the ERU definition of 3,100 sq. ft. (which is the average impervious area of a Single-Family parcel). The annual assessment to each parcel is then determined by multiplying $131.77 (as presented in the table below), which represents the stormwater assessment per ERU, by the number of ERUs for each non-single-family parcel.

FY 2022 Assessment Rate for Non-Single-Family Parcels
$131.77 Per ERU

The revenue sufficiency study updated and conducted this Fiscal Year, indicate the need for a 4.5% increase to the Stormwater Assessment Rates in FY 2023 instead of 9% annual adjustments as with previous years, 4.5% increase FY 2023 and 3% increase each year thereafter. The maximum residential assessment for Tier 1, $102.09, Tier 2, $157.06 and Tier 3, $273.29, with the maximum assessment rate of $157.06 per ERU for non-single-family parcels that are not subject to the tiered assessment.

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STRATEGIC PLAN CONNECTION:

Fiscal sustainability is part of the City's strategic plan. By creating the 10-year Financial Model, the City provides an equitable rate and method of collection.

Additionally, during the City Council - Leadership Retreat and planned for the upcoming revisions to the Strategic Plan is City Council consensus to address the issue of Infrastructure (and specifically proactively managing and maintaining it) in the revised Strategic Plan.

BUDGETARY IMPACT:

The estimated gross Stormwater Assessment Revenue and Tax Certificates to be collected for Fiscal Year 2023 is $2.19 million dollars.

PREVIOUS ACTION:

January 18th and 25th and February 1st and 8th 2019 - Advertised in the Florida Today Newspaper a Resolution of Intent, to change the method of collection to one of a Uniform Method of Collection, in pursuant to section 197.3632(3)(a) of Florida Statues and the Municipal Home Rule Powers Act.

February 13, 2019, 6:00 - Held a Public Hearing on the Resolution of Intent, to allow the use of the Uniform Method of Collection, pursuant of section 197.3632 of Florida Statues. Allow the City Manager, to enter into negotiations with the Brevard County Property Appraiser and Brevard County Tax Collectors Office to bill the assessment, should the 10-year financial model deem it prudent.

May 14, 2019 6:00 - Stormwater Utility Workshop, with Mead and Hunt, Stantec Consulting, City Staff, City Council, and the Public.

May 24, 2019 - The City of Cocoa entered into agreement with the Brevard County Tax Collector and Brevard County Property Appraiser, to bill the Non-Ad Valorem Assessment, previously approve by City Council on February 13, 2019.

June 26, 2019 - First Reading of Ordinance 10-2019: Home Rule Stormwater Special Assessment, advertised in Florida Today June 6, 2019.

July 10, 2019 - Final Reading of Ordinance 10-2019: Home Rule Stormwater Special Assessment, advertised in the Florida Today newspaper June 20, 2019.

August 23, 2019 - First Class mailing to all affected parcels, with the date, time and place of the reading of the Initial Assessment Resolution as well as the stormwater assessment rate/charge.

August 23, 2019 - Advertise in the Florida Today Newspaper, the date, time and place of the reading of the Initial Assessment Resolution as well as the stormwater assessment rate.

August 28, 2019 - Initial Assessment Resolution No. 2019-069 Adopted by City Council for FY20.

September 11, 2019 - Final Assessment Resolution No. 2019-071 Adopted by City Council for FY20.

August 26, 2020 - Preliminary Assessment Resolution 2020-194 Adopted by City Council for FY21.

September 9, 2020 - Final Assessment Resolution No. 2020-196 Adopted by City Council for FY21.

September 14, 2021 - Final Assessment Resolution No. 2021-083 Adopted by City Council for FY22.

August 09, 2022 - Preliminary Assessment Resolution 2022-076 Adopted by City Council for FY21

RECOMMENDED MOTION:

Approve the Final Assessment Resolution 2022-078 for Stormwater Utility Services, Fiscal Year 2023.

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CITY OF COCOA, FLORIDA

STORMWATER ASSESSMENT
FINAL ASSESSMENT RESOLUTION

RESOLUTION NO. 2022-078

ADOPTED August 23, 2022

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RESOLUTION No. 2022-078

A RESOLUTION OF THE CITY COUNCIL OF COCOA, FLORIDA, RELATING TO STORMWATER SERVICES, FACILITIES AND PROGRAMS; PROVIDING FOR THE IMPOSITION OF NON-AD VALOREM SPECIAL ASSESSMENTS PURSUANT TO ORDINANCE 10-2019 WITHIN THE ENTIRE AREA OF THE CITY TO FUND STORMWATER SERVICES, FACILITIES AND PROGRAMS; ESTABLISHING STORMWATER ASSESSMENT RATES FOR CITY FISCAL YEAR 2022/2023; DIRECTING THE CITY MANAGER TO PREPARE A PRELIMINARY ASSESSMENT ROLL; ESTABLISHING A PUBLIC HEARING TO CONSIDER IMPOSITION OF THE PROPOSED SPECIAL ASSESSMENTS; DIRECTING THE PROVISION OF NOTICE IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AS FOLLOWS:

ARTICLE I

INTRODUCTION

SECTION 1.01. AUTHORITY. This Resolution of the City of Cocoa, Florida is adopted pursuant to City Ordinance No. 10-2019, Sections 166.021, 166.041, 197.3632, and 403.0893, Florida Statutes, and other applicable provisions of law.

SECTION 1.02. DEFINITIONS. This Resolution constitutes the Final Assessment Resolution as defined in the Assessment Ordinance. All capitalized words and terms not otherwise defined herein shall have the meaning set forth in the Assessment Ordinance. As used in this Resolution, the following terms shall have the following meanings, unless the context hereof otherwise requires.

"Assessed Property" means all Parcels of land included on the Assessment Roll that receive a special benefit from the delivery of the stormwater services, programs or facilities identified or contemplated in this Resolution and included in the Assessment Roll.

"Assessment Study" means the City of Cocoa Stormwater Rate Study – Final Report prepared by Stantec Consulting Services, Inc., dated August 26, 2019, as updated by Stantec Consulting Services, Inc. on August 20, 2020,September 8, 2021 and August 9, 2022.

"Assessment Ordinance" means City Ordinance No. 10-2019, as may be amended from time to time, or its successor in function.

"City" means the City of Cocoa, Florida.

"City Clerk" means the clerk of the City Council.

"City Manager" means the chief administrative officer of the City, designated by the City Council to be responsible for coordinating Stormwater Assessments or such person's designee.

"City Council" means the governing body of the City of Cocoa, Florida.

"Fiscal Year" means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the City.

"Tax Parcel" or "Parcel" means a parcel of property to which the Brevard County Property Appraiser has assigned a distinct ad valorem property tax identification number.

"Tax Roll" means the real property ad valorem tax roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

"Uniform Assessment Collection Act" means Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

SECTION 1.03. INTERPRETATION. Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Resolution; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Resolution. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

SECTION 1.04. CONFIRMATION OF PRELIMINARY ASSESSMENT RESOLUTION; FINDINGS. The Preliminary Assessment Resolution No. 2022-076 is hereby ratified and confirmed. In addition and supplemental to the findings adopted by the City Council in Ordinance No. 10-2019, it is hereby ascertained, determined and declared as follows:

(A) Inadequate management of runoff from development in a watershed increases stormwater peak flows, volumes, and velocities, erodes and/or silts stream channels, pollutes water, overloads existing drainage facilities, undermines floodplain management in downstream communities, reduces groundwater recharge, and threatens public health and safety. More specifically, stormwater runoff can convey pollutants into and cause higher velocities in receiving waters such as the Indian River Lagoon. The potential impacts of these pollutants and higher velocities include: (1) Changing natural ecosystems through sediment and pollutant deposits which affect the quantity and quality of flowing water, destruction of habitats, and loss of plant and animal life; (2) Posing significant health risks through increased bacteria; (3) Accelerating eutrophication of receiving waters by introducing excessive nutrient loads; (4) Increasing metal deposits creating toxicity for aquatic life; (5) Reducing oxygen levels because of oil, grease and organic matter; and (6) Affecting animal and plant life, adversely, due to changing temperatures of receiving waters.

(B) Uncontrolled stormwater runoff can increase the incidence of flooding and of floods that occur, endangering roads, aboveground and underground utility infrastructure, and other public and private property and human life.

(C) Altered land surfaces can change the rate and volume of runoff. These changes may result in the following: (1) increased urban runoff and pollutants to the natural environment; (2) increased flooding of private property; (3) degradation of safety

and welfare of the residents and visitors of the City, including negatively impacting emergency response capabilities as a result of stormwater flooding; (4) decreased use and enjoyment of property; and (5) decreased property and rental value, marketability, and integrity of property.

(D) Every parcel of real property, both public and private, either uses or benefits from the maintenance of the City's stormwater system; and receives a special benefit from the City's stormwater system including the following: (1) reduced urban runoff and pollutants to the natural environment; (2) reduced flooding of private property; (3) improved safety and welfare of the residents and visitors of the City, including negatively impacting emergency response capabilities as a result of stormwater flooding; (4) enhanced use and enjoyment of property; and (5) enhanced property and rental value, marketability, and integrity of property.

(E) The City Council has carefully considered the Assessment Study which describes an apportionment methodology based upon the benefit received from the City's stormwater services, facilities and programs by all developed parcels with impervious surface, and has considered the applicable court decisions including Sarasota County v. Sarasota Church of Christ, Inc., 667 So. 2d 180 (Fla. 1995) (upholding stormwater special assessment on developed real property with impervious surfaces to fund stormwater utility services); State v. Sarasota County, 693 So. 2d 546 (Fla. 1997)(upholding stormwater special assessment on all developed property, with or

without impervious surface); and Boca Raton v. State, 595 So. 2d 25 (Fla. 1992)(local governments are afforded deference in fairly apportioning costs under a special assessment as long as the amount of the assessment for each tract is not in excess of the proportional benefits as compared to other assessments on other tracts).

(F) The conversion of natural land to developed land with impervious area results in increased stormwater runoff and numerous engineering and hydrologic studies have demonstrated that impervious area is the single most important factor contributing to the quantity and quality of stormwater runoff from a property. Thus, the use of impervious area has been demonstrated to be a simple, easy to understand approach that is a highly defensible basis to fairly and equitably apportion the costs of a municipal stormwater system to benefitting parcels for the stormwater assessment.

(G) The City expends substantial and measurable resources each year in providing stormwater services, facilities and programs to the public within the jurisdictional limits of the City.

(H) The City must generate and receive sufficient stormwater revenues to meet projected operating and capital expenditures of the City's stormwater utility, and the City Council has determined based on the recommendations contained in the Assessment Study, that the City should use a non- ad valorem assessment process as the primary method of funding the City's stormwater utility system.

(I) The City is not required to fully fund any given essential service or improvement cost through a special assessment. So long as the application of funds is for a public purpose and funds are legally available, the City may determine to fund all or a portion of an essential service or improvement, such as stormwater services, facilities or programs, with general fund or other legally available revenues. The determination as to whether to contribute such other legally available revenues, and how much to contribute, lies solely in the discretion of the City Council.

(J) Stated in the alternative, there is no requirement that the City impose an assessment for the maximum amount of the budget which can be funded by special assessments. The City Council may annually determine as a matter of public policy and tax equity to impose Stormwater Assessments at a rate less than necessary to fund all or any specific portion of the Stormwater Assessed Costs. Costs incurred in providing stormwater services, facilities and programs not otherwise funded through Stormwater Service Assessments may be paid with general fund or other legally available revenues. Such legally available revenues as a matter of policy may be applied exclusively to any tier or class of properties, and the City may adjust and appropriate any budget allocation or expense otherwise funded by a special assessment, or in any combination thereof, and maintain the validity of the apportionment. The flexibility described above is implemented through a policy and legislative determination employed through careful adherence to case law, statutory law, and the State Constitution, as well as the exercise of annual budget

responsibility, discretion and equity vested in the City Council. However, in no event shall any annual rate of Stormwater Assessment exceed the maximum assessment rate previously noticed to the affected land owners without further notice and public hearing pursuant to the Assessment Ordinance.

(K) The findings and legislative determinations contained herein are premised upon information, input, analysis and review from City staff, officials and experts, and public comment, as well as careful consideration by the City Council. A combination of the foregoing yields a reasoned apportionment methodology premised upon the distinct tiers or classes of apportionment allocation described herein. The tiers and classes, when used together, provide a legal, flexible and equitable means for the City to fairly and reasonably allocate assessable benefits and costs among Assessed Property in the City.

(L) The apportionment among Tax Parcels of a portion of the City's annual budget for stormwater services, facilities and programs necessary for providing the stormwater protection is hereby determined to be a fair and reasonable means to annually allocate and share the benefits and costs associated therewith.

(M) The benefits derived from the stormwater services, facilities and programs as to each Tax Parcel subject to the Stormwater Assessments equal or exceed the amount of the special assessments levied and imposed hereunder. The Assessment for any Tax Parcel within the City in employing such an approach also does not exceed the proportional

benefits that such Tax Parcel will receive compared to any other Tax Parcel so assessed within the City.

(N) The City Council hereby finds and determines that the Stormwater Assessments to be imposed in accordance with this Resolution provide a proper and equitable method of funding stormwater services, facilities and programs by fairly and reasonably allocating a portion of the costs associated therewith among specially benefited property.

ARTICLE II

NOTICE AND PUBLIC HEARING

SECTION 2.01. ESTIMATED STORMWATER ASSESSED COST.

(A) The estimated Stormwater Assessed Cost to be recovered through Stormwater Assessments for the Fiscal Year commencing October 1, 2022, is approximately $2.08 million. The Stormwater Assessed Cost will be funded through the imposition of Stormwater Assessments, as provided herein.

(B) The City Manager shall utilize the assessment rates associated with the single family residential Tier 1, Tier 2 and Tier 3, and non-single family residential Stormwater Assessments as described in this Final Assessment Resolution in the preparation of the Final Assessment Roll as provided in Section 2.02 of this Final Assessment Resolution.

SECTION 2.02. ASSESSMENT ROLL. The Preliminary Assessment Roll, which was approved by Resolution No. 2022-076, and which is currently on file with the City Clerk and incorporated herein by this reference, is hereby approved, as may have been expressly directed by the City Council to be modified during the hearing at which this Resolution was adopted by the City Council. The Assessment Roll shall include all Tax Parcels within the City which are not otherwise exempted from payment of the Stormwater Assessments hereunder.

ARTICLE III

ASSESSMENTS

SECTION 3.01. STORMWATER ASSESSMENTS TO BE IMPOSED THROUGHOUT CITY. Stormwater Assessments are to be imposed throughout the entire area contained within the boundaries of the City in accordance with the Assessment Ordinance and the Final Assessment Resolution to be adopted by the City Council at the public hearing to be held pursuant to this Article III.

SECTION 3.02. IMPOSITION OF ASSESSMENTS. Stormwater Assessments shall be imposed against property located within the City, the annual amount of which shall be computed for each Tax Parcel in accordance with this Article III. When imposed, the Stormwater Assessment for each Fiscal Year shall constitute a lien upon Assessed Property equal in rank and dignity with the liens of all state, county,

district or municipal taxes and other non-ad valorem assessments until paid, as provided in the Assessment Ordinance and in accordance with Florida law.

SECTION 3.03. APPORTIONMENT.

(A) The Assessment Study is hereby ratified and incorporated herein in its entirety. The apportionment method set forth therein is hereby ratified as the apportionment method for the Stormwater Assessments authorized by this Resolution. The Final Assessment Rates for Fiscal Year 2022/2023, which are set forth in the following rate schedule, are hereby levied and imposed on all Tax Parcels described in the Assessment Role as follows:

FY 2022 Assessment Rates for Single Family Parcels (up to three units)			FY 2022 Assessment Rate for Non-Single Family Parcels
Tier 1: 400 – 2,300 sq. ft. of impervious area	Tier 2: 2,400 – 4,400 sq. ft. of impervious area	Tier 3: Greater than 4,400 sq. ft. of impervious area	
$85.65	$131.77	$229.29	$131.77 Per ERU

Note that parcels with less than 400 sq. ft. will not be assessed as the impact upon the City's stormwater system is di minimus. The amount of the annual stormwater assessment imposed against each property is based on an impervious area apportionment method whereby a portion of the City's annual stormwater budget is allocated to properties based upon the total impervious area of each individual parcel.

For single family residential parcels (including up to three dwelling units), parcels will be placed into one of three tiers mentioned herein based on the amount of impervious area measured on the individual parcel rounded down to the nearest hundred sq. ft. Tier 1 ranges from 400 - 2,300 sq. ft., Tier 2 ranges from 2,400 - 4,400 sq. ft., and Tier 3 is greater than 4,400 sq. ft. The assessment for each tier is presented in the table above. For non-single-family parcels, each parcel is assigned a number of Equivalent Residential Units (ERUs) that is calculated based on the measured amount of impervious area on the parcel rounded down to the nearest hundred sq. ft. divided by the ERU definition of 3,100 sq. ft. (which is the average impervious area of a single-family parcel). The annual fee assessed to each parcel is then determined by multiplying $131.77 (as presented in the table above), which represents the stormwater assessment per ERU, by the number of ERUs for each non single-family parcel.

(B) Based upon the projections concerning net revenue requirements set forth in the Assessment Study, the Assessment Roll for subsequent Fiscal Years may reflect increases in the assessment rates up to and including the maximum rates presented in the rate schedule in Section 3.03.(A). More specifically, the annual assessment will be increased by 4.5% in Fiscal Year 2022, 4.5% in Fiscal Year 2023 and 3.0% each year thereafter that the assessment is levied up to a maximum assessment rate of $102.09 for Tier 1, $157.06 for Tier 2, $273.29 for Tier 3 and $157.06 per ERU, and a maximum assessment rate of $157.06 per ERU for non-single family parcels that are not subject to the tiered assessment.

(C) The amount of the annual Stormwater Assessment imposed against Assessed Property may include a pro rata share of the costs and expenses associated with the collection and administration of the Stormwater Assessments each year.

(D) It is hereby ascertained, determined, and declared that the method of determining the Stormwater Assessments as set forth in this Final Assessment Resolution is a fair and reasonable method of apportioning the Stormwater Assessed Cost among Assessed Property.

SECTION 3.04. APPLICATION OF ASSESSMENT PROCEEDS. Proceeds derived by the City from the Stormwater Assessments shall be utilized for the provision of stormwater services, facilities and programs. In the event there is any fund balance remaining at the end of the 2022/2023 Fiscal Year, such balance shall be carried forward and thereafter used only to fund stormwater related services, facilities, and programs.

SECTION 3.05. COLLECTION OF ASSESSMENTS. Stormwater Assessments for the 2022/2023 Fiscal Year shall be collected pursuant to the direct billing method provided for in the Assessment Ordinance, and each year thereafter pursuant to the Uniform Assessment Collection Act as provided for in the Assessment Ordinance, unless otherwise determined by the City Council.

SECTION 3.06. EXEMPTION.

(A) Tax Parcels assigned the following Florida Department of Revenue property use codes (DOR codes) by the Property Appraiser are not subject to the

Stormwater Assessment contemplated hereunder; provided, however, that the costs associated with the exemption of such Tax Parcels shall be funded through other legally available revenues of the City and not through Stormwater Assessments imposed hereunder.

DOR Code	DOR Description	Parcel Count
465	CONDOMINIUM - MISCELLANEOUS (NOT COVERED	59
499	NON-TAXABLE CONDOMINIUM COMMON AREA	60
8010	SCHOOL (PUBLICLY OWNED) - VACANT	1
8020	COUNTY OWNED LAND - VACANT (THAT DOES	5
8040	HOUSING AUTHORITY - VACANT	13
8060	STATE OWNED LAND - VACANT (THAT DOES NOT	15
8080	MUNICIPALLY OWNED LAND - VACANT (THAT	78
8300	SCHOOL (PUBLICLY OWNED) - IMPROVED	7
8400	COLLEGE	1
8610	COUNTY OWNED LAND - IMPROVED (THAT DOES	6
8640	BREVARD COUNTY-OWNED (AGENCY OTHER THAN	1
8660	HOUSING AUTHORITY - IMPROVED	37
8710	STATE OWNED LAND - IMPROVED (THAT DOES	4
8810	FEDERALLY OWNED LAND - IMPROVED (THAT	1
8910	MUNICIPALLY OWNED LAND - IMPROVED (THAT	33
9105	LOCALLY-ASSESSED RAILROAD PROPERTY	14
9170	WATER & SEWER SERVICE	3
9400	RIGHT OF WAY STREET, ROAD, ETC - PUBLIC	-
9410	RIGHT OF WAY STREET, ROAD, ETC - PRIVATE	1
9499	ASSESSMENT ARREARS	-
9500	RIVERS AND LAKES	1
9510	SUBMERGED LANDS	2

In addition, parcels that are undeveloped land with no impervious surface are not assessed for the portion of the parcels that are undeveloped as those portions do not receive material benefit from City stormwater services, facilities and programs and those portions are considered to be exempt from the Stormwater Assessments. However, one

parcel with a 9105 land use code will be assessed because of impervious surface related to a building on the parcel.

(B) Tax Parcel classifications indicative of special designations used by the Property Appraiser for recordkeeping purposes which do not represent actual or assessable Tax Parcels are not subject to the Stormwater Assessments contemplated hereunder (e.g. header records).

(C) Notwithstanding anything herein to the contrary, the City Council reserves the right and ability in the future to impose Stormwater Assessments against Tax Parcels determined to be exempt hereunder to the extent permitted by law or otherwise in the event required or directed to do so by a court of competent jurisdiction.

SECTION 3.07 CREDITS.

(A) Parcels that engage in onsite stormwater management may receive a credit on their Stormwater Assessment in order to recognize the benefit of the activity to reduce the volume of stormwater leaving the properties, or enhance the quality of the runoff, thereby, reducing the burden on the City's stormwater system. The intent and purpose of the credit is to maintain equity for property owners with onsite stormwater management because such property owners have invested in measures to reduce stormwater runoff from their property and therefore reducing the effort required by the City to manage their stormwater runoff.

(B) In order for a property owner to obtain a credit, the property owner must demonstrate a specified reduction of stormwater to the City's stormwater system from the property by providing onsite attenuation for a minimum storm event required by the St. Johns River Water Management District, pursuant to applicable law.

(C) Application and eligibility requirements to obtain a credit shall be determined by written administrative policy approved by the City Manager, provided such policy shall be consistent and not in conflict with this Resolution, and supported by a written technical memorandum prepared by the City's stormwater assessment consultant evidencing a fair and equitable method of determining the applicable credit.

3.08 EFFECT OF FINAL RESOLUTION. The adoption of this Final Assessment Resolution shall be the final adjudication of the issues presented herein and in the Preliminary Assessment Resolution including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property; the method of apportionment and assessment; the preliminary rate of assessment; the levy and lien of the stormwater assessment; the method by which the assessments will be computed, the Assessment Roll, and the Maximum Assessment Rate unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of City Council action on this Final Assessment Resolution. Nothing contained in this Section shall be construed as prohibiting the City from presenting any legal arguments that actions filed against the validity or effectiveness of the City's stormwater assessment have

been waived, estopped, forfeited or bared by the actions or inactions of any plaintiff, previous legal actions or the passage of time.

3.09 DELIVERY TO TAX COLLECTOR. The Assessment Roll, as approved by this Final Assessment Resolution, shall be delivered to the Tax Collector by the City Manager or his designee, as required by the Uniform Assessment Collection Act.

ARTICLE IV

GENERAL PROVISIONS

SECTION 4.01. CONFLICTS. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4.02. SEVERABILITY. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are declared to be severable.

SECTION 4.03. EFFECTIVE DATE. This Resolution shall take effect immediately upon its passage and adoption.

[Adoption and Signature Page Follows]

PASSED, ADOPTED AND APPROVED this 23rd day of August, 2022.

CITY COUNCIL OF
COCOA, FLORIDA

By: _____
Michael C. Blake, Mayor

Attest:

By: _____
Carie Shealy, MMC, City Clerk

Appendix A

PROOF OF PUBLICATION

Appendix B

AFFIDAVIT OF MAILING

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.

A Daily Publication By:

FLORIDA TODAY
FLORIDATODAY.com
A GANNETT COMPANY

CITY OF COCOA TE
65 STONE ST
COCOA, FL 32922
ATTN CARIE SHEALY

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

8/3/2022

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 3RD DAY OF AUGUST 2022 by legal clerk who is personally known to me

Affiant

Notary State of Wisconsin County of Brown

1-7-25

My commission expires

KATHLEEN ALLEN
Notary Public
State of Wisconsin

PUBLICATION COST: $934.40
AD NO: GCI0922670
CUSTOMER NO: CIT180
PO#: PUBLIC NOTICE

NOTICE OF HEARING TO ADOPT NON-AD VALOREM STORMWATER ASSESSMENT RATES

Notice is hereby given that the City Council of the City of Cocoa, Florida, will conduct a public hearing to consider adopting updated Stormwater Assessment non-ad valorem assessment rates, to pay a portion of annual stormwater costs related to the provision of Stormwater services, facilities and programs to properties within the City pursuant to Ordinance 10-2019 previously adopted by the City Council in 2019. The proposed updated rates will not exceed the maximum ERU previously adopted by the City Council. The City Council may continue hearings on the matter and the date and time for continuance shall be announced at the public hearing without further written notice of the continued hearing to the public. The decision on whether to impose the assessment will be made either at this public hearing at the time and date listed below or at a continuance of the public hearing to be held, if necessary. Note: The proposed assessment, if adopted, will replace the current Stormwater Assessment and will not be in addition to the current Stormwater Assessment.

The public hearing will be held on August 23, 2022, at 6:00 PM or soon thereafter, at the Council Chambers, 65 Stone St., Cocoa, FL 32922, for the purpose of considering approval of the Preliminary and Final Assessment Resolutions and receiving public comment on the proposed assessment. The final decision on the assessment will be made by the City Council during the public hearings. If necessary, the City Council may continue the public hearings and the date and time for continuance shall be announced at the public hearing without further written notice of the continued hearing to the public. All affected property owners have a right to attend and speak at the hearing and to file written objections and/or comments with the City Council within 20 days of this notice.

Copies of the above-referenced Ordinance, Resolutions, and the non-ad valorem assessment roll are on file with and may be viewed during normal business hours at the Office of the City Manager or at the Office of the City Clerk, both located at 65 Stone Street, Cocoa, FL 32922.

The total annual stormwater assessment revenue to be collected within the City for Fiscal Year 2023 is estimated to be approximately $2,192,090. For the purpose of this non-ad valorem assessment, benefited parcels are all parcels within the City limits of the City of Cocoa except for properties with government ownership, public roads and rights-of-way, vacant parcels, railroad tracks, certain educational establishments, bona-fide agricultural operations, parcels with less than 400 square feet of impervious surface, and such other exempt properties determined by lawful action of the City Council. The amount of the annual stormwater assessment imposed against each property is based on an impervious area apportionment method whereby a portion of the City's annual stormwater budget is allocated to properties based upon the total impervious area of each individual parcel. For single family residential parcels (including up to three dwelling units), parcels will be placed in to one of three tiers based on the amount of impervious area measured on the individual parcel rounded down to the nearest hundred sq. ft. Tier 1 ranges from 400 - 2,300 sq. ft., Tier 2 ranges from 2,400 - 4,400 sq. ft., and Tier 3 is greater than 4,400 sq. ft. The assessment for each tier is presented in the table below. For non-single-family parcels, each parcel is assigned a number of Equivalent Residential Units (ERUs) that is calculated based on the measured amount of impervious area on the parcel rounded down to the nearest hundred sq. ft. divided by the ERU definition of 3,100 sq. ft. (which is the average impervious area of a single-family parcel. The annual fee assessed to each parcel is then determined by multiplying $131.77 (as presented in the table below), which represents the stormwater assessment per ERU, by the number of ERUs for each non-single-family parcel.

FY 2023 Assessment Rates for Single Family Parcels (up to three units)			FY 2023 Assessment Rate for Non-Single-Family Parcels
Tier 1: 400 – 2,300 sq. ft. of impervious area	Tier 2: 2,400 – 4,400 sq. ft. of impervious area	Tier 3: Greater than 4,400 sq. ft. of impervious area	
$85.65	$131.77	$229.29	$131.77 Per ERU

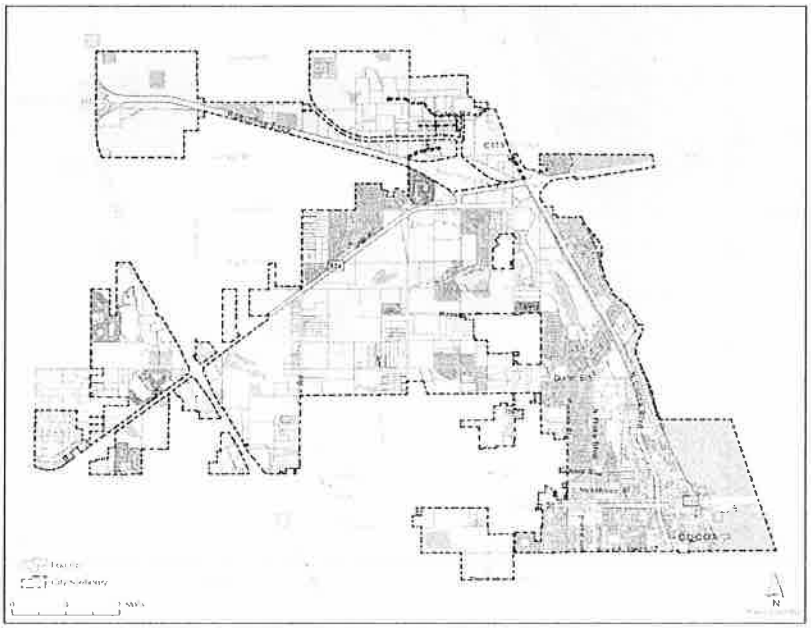
Note that parcels with less than 400 sq. ft. will not be assessed as the impact upon the stormwater system is de minimis.

For parcels that have constructed permitted, on-site facilities that meet the criteria outlined in Final Rate Resolution that mitigate the stormwater runoff from the parcel, a property owner may apply for a mitigation credit against the parcel's stormwater assessment. For those parcels that currently have a mitigation credit in the current stormwater user fee, those credits have been recognized in the assessment amount above.

The annual assessment will be increased by 4.5% in Fiscal Year 2023 and 4.0% each year thereafter that the assessment is levied up to a maximum assessment of $102.09 for Tier 1, $157.06 for Tier 2, $273.29 for Tier 3 and $157.06 per ERU, and a maximum assessment rate of $157.06 per ERU for non-single-family parcels that are not subject to the tiered assessment.

The non-ad valorem assessment is an annual assessment which will continue from year to year. For Fiscal Year 2023 and each year thereafter, the assessment will be collected by the Brevard County Tax Collector on the Ad-Valorem Tax bill to be mailed in November. The annual assessment amount will include expenses incurred by the City in administering and collecting the assessment including fees imposed by the County property appraiser and tax collector and will be adjusted as necessary to account for any statutory discounts which are necessitated when employing the efficiencies of collecting the assessments annually on the same bill as property taxes. Florida law provides that failure to pay the assessment will cause a tax certificate to be issued against the assessed property which may result in a loss of title. Annual adjustments to this assessment, including increases, may be implemented and the maximum assessment rates presented above are authorized to provide sufficient future revenues (in addition to other legally available funds) for the City to provide stormwater services, facilities and programs at appropriate levels of service.

If a person decides to appeal any decision made by the City Council with respect to any matter considered at the hearing, he or she will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City Clerk's Office at (321) 433-8488 at least two days prior to the date of the hearing. If you have any questions, please contact, out Stormwater Division at (321-433-8770) or stormwater@cocoafl.org, Monday through Friday between 8:00 a.m. and 4:00 p.m.



CITY COUNCIL
CITY OF COCOA, FLORIDA

F:\GCIC\22670-01

FEMA official to lead monkeypox fight

WH: 1.1M vaccine doses have been distributed

Michael Collins
USA TODAY

WASHINGTON – President Joe Biden has chosen top officials at the Federal Emergency Management Agency and the Centers for Disease Control and Prevention to lead the nation's fight against monkeypox.

Robert Fenton of FEMA will serve as the White House National Monkeypox Response Coordinator, and Dr. Demetre Daskalakis will be deputy coordinator, the White House said in a statement Tuesday.

The two officials will lead the administration's strategy and operations to combat the current monkeypox outbreak, including increasing the availability of tests, vaccinations and treatments, the statement said.

The appointments come as the administration has faced criticism over the pace of vaccine availability for monkeypox, a rare viral infection that does not usually cause serious illness but can result in hospitalization or death. Monkeypox spreads through close, physical contact between people.

More than 20,000 cases of monkeypox have been detected globally, with more than 5,800 reported cases in the United States. Last Friday, the World Health Organization declared monkeypox a "public health emergency of international concern," joining COVID-19 and polio in that designation.

Clinics in major cities like New York and San Francisco say they haven't received enough of the two-shot vaccine to meet demand, and some have had to stop offering the second dose of the vaccine to ensure supply of first doses.

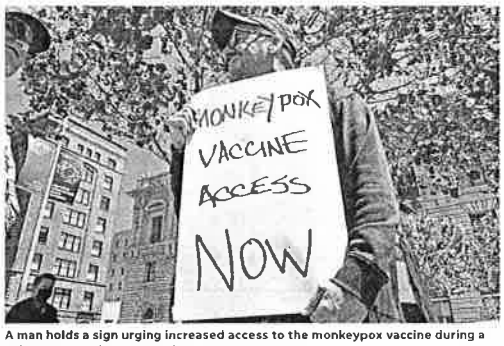
Several Democrats on a key House panel asked the Government Accountability Office and the Department of Homeland Security on Monday to examine the federal government's preparations for and response to the monkeypox virus.

"When there is an infectious disease outbreak, the federal government has an obligation to make vaccines, therapeutics and diagnostics widely available without undue delay," Rep. Bennie Thompson, a Mississippi Democrat who chairs the House Homeland Security Committee, and other members of the panel wrote in a letter to the GAO.

"We are concerned that the pace of the federal response to monkeypox has enabled the virus to spread for two months and delays in distributing tests and vaccines have harmed efforts to contain the virus ... allowing the virus to begin to entrench itself as a rapidly spreading rare disease in the interim."

White House press secretary Karine Jean-Pierre said Monday that 1.1 million doses of the monkeypox vaccine have been distributed in the United States, including 737,000 doses that have gone out in the past few days.

More than 80,000 tests for monkeypox have been administered per week, she said.



A man holds a sign urging increased access to the monkeypox vaccine during a July 18 protest in San Francisco. HAVEN DALEY/AP FILE

Will US declare public health emergency?

Asked whether Biden plans to declare a public health emergency, Jean-Pierre said the decision rests with Health and Human Services Secretary Xavier Becerra.

But, "we are considering every policy option to help end this outbreak," she said. "That is urgent, and that is important to us."

Dr. Anthony Fauci, the nation's top infectious disease expert and Biden's top science adviser, praised the appointment of Fenton and Daskalakis on Monday night and said he hoped they would tighten the coordination between the various federal agencies involved in the monkeypox response.

"I personally think we're dealing with a really serious issue here," Fauci said. "There are a lot of unknowns. There are a lot of knowns about monkeypox, but there's still a lot of unknowns. So we really got to implement the interventions we have, get a much better feeling for the natural history and the scope and absolutely reach out into the community, and that's the reason why I think the combination of Bob and Demetre is really a good combination."

Who are Robert Fenton and Demetre Daskalakis?

Fenton serves as regional administration for FEMA's Region 9, which covers the West and has nearly 50 million people in his area of responsibility. He twice served as acting administrator of FEMA and led multiple prevention, response and recovery operations throughout his career, including for natural disasters, disease outbreaks and complex humanitarian operations.

Daskalakis is director of the CDC's Division of HIV Prevention. He is known as a national expert on health issues affecting the LGBGQIA+ communities. He previously oversaw management of infectious diseases for the New York City Department of Health and Mental Hygiene, one of the largest departments in the nation.

Both played roles in making COVID-19 vaccines more accessible for underserved communities and closing the equity gap in adult vaccination rates.

California governor declares monkeypox state of emergency

California's governor on Monday declared a state of emergency to speed efforts to combat the monkeypox outbreak, becoming the second state in three days to take the step.

Gov. Gavin Newsom said the declaration will help California coordinate a government-wide response, seek more vaccines and lead outreach and education efforts on where people can get treatment and vaccination.

"We'll continue to work with the federal government to secure more vaccines, raise awareness about reducing risk, and stand with the LGBTQ community fighting stigmatization," Newsom said in a statement announcing his declaration.

Nearly 800 cases of monkeypox have been reported in California, according to state public health officials.

The declaration in California came after a similar one in New York state on Saturday, and in San Francisco on Thursday. Newsom's administration had said as recently as Friday that it was too soon for such a declaration.

Democratic state Sen. Scott Wiener of San Francisco hailed the governor's decision.

"The monkeypox outbreak is an emergency, and we need to use every tool we have to control it," Wiener said.

Contributing: The Associated Press

NOTICE OF HEARING TO ADOPT NON-AD VALOREM STORMWATER ASSESSMENT RATES

Notice is hereby given that the City Council of the City of Cocoa, Florida, will conduct a public hearing to consider adopting updated Stormwater Assessment non-ad valorem assessment rates to continue funding the provision of Stormwater services, facilities and programs to properties within the City pursuant to Ordinance 10-2019 previously adopted by the City Council in 2019. The proposed updated rates will not exceed the maximum ERU previously adopted by the City Council. The City Council may continue hearings on the matter and the date and time for continuance shall be announced at the public hearing without further written notice of the continued hearing to the public. The decision on whether to impose the assessment will be made either at this public hearing or as a consequence of the public hearing to be held, if necessary. Note: The proposed assessment, if adopted, will replace the current Stormwater Assessment and will not be in addition to the current Stormwater Assessment.

The public hearing will be held on August 23, 2022, at 6:00 PM or soon thereafter, at the Council Chambers, 65 Stone St., Cocoa, FL 32922, for the purpose of considering approval of the Preliminary and Final Assessment Resolutions and receiving public comment on the proposed assessment. The final decision on the assessment will be made by the City Council during the public hearings. If necessary, the City Council may continue the public hearings and the date and time for continuance shall be announced at the public hearing without further written notice of the continued hearing to the public. All affected property owners have a right to attend and speak at the hearing and to file written objections with the City Council within 20 days of this notice.

Copies of the above-referenced Ordinance, Resolutions, and the non-ad valorem assessment roll are on file with and may be viewed during normal business hours at the Office of the City Manager or at the Office of the City Clerk, both located at 65 Stone Street, Cocoa, FL 32922.

The total annual stormwater assessment revenue to be collected within the City for Fiscal Year 2023 is estimated to be approximately $2,187,000. For the purpose of this non-ad valorem assessment, benefited parcels are all parcels within the City limits of the City of Cocoa except for properties with government ownerships, public roads and rights-of-way, vacant parcels, railroad tracks, certain educational establishments, some free agricultural operations, parcels with less than 400 square feet of impervious surface, and such other exempt properties determined by lawful action of the City Council. The amount of the annual stormwater assessment imposed against each property is based on an impervious area apportionment method whereby a portion of the City's annual stormwater budget is allocated to properties based upon the total impervious area of each individual parcel. For single family residential parcels (including up to three dwelling units), parcels will be placed in up to one of three tiers based on the amount of impervious area measured on the individual parcel rounded down to the nearest hundred sq. ft. Tier 1 ranges from 400 - 2,300 sq. ft., Tier 2 ranges from 2,400 - 4,400 sq. ft., and Tier 3 is greater than 4,400 sq. ft. The assessment for each tier is presented in the table below. For non-single family parcels, each parcel is assigned a number of Equivalent Residential Units (ERUs) that is calculated based on the measured amount of impervious area on the parcel rounded down to the nearest hundred sq. ft., divided by the ERU per/acre of 3,168 sq. ft. (which is the average impervious area of a single-family parcel). The annual fee assessed to each parcel is then determined by multiplying $131.77 (as presented in the table below), which represents the stormwater assessment per ERU, by the number of ERUs for each non-single family parcel.

FY 2023 Assessment Rates for Single Family Parcels (up to three units)			FY 2023 Assessment Rate for Non Single Family Parcels
Tier 1: 400 - 2,300 sq. ft. of impervious area	Tier 2: 2,400 - 4,400 sq. ft. of impervious area	Tier 3: Greater than 4,400 sq. ft. of impervious area	
$85.85	$131.77	$229.29	$131.77 Per ERU

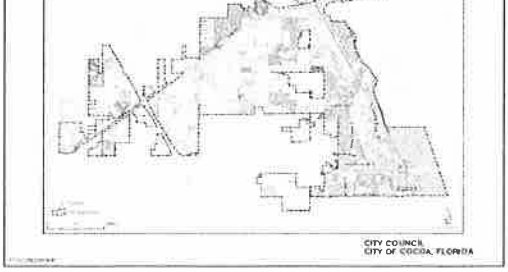
Note that parcels with less than 400 sq. ft. will not be assessed as the impact upon the stormwater system is de minimis.

For parcels that have constructed permitted, on-site facilities that meet the criteria outlined in Final Rate Resolution that mitigate the stormwater runoff from the parcel, a property owner may apply for a mitigation credit against the parcel's stormwater assessment. For those parcels that currently have a mitigation credit in the current stormwater user fee, those credits have been recognized in the assessment amount above.

The annual assessment will be increased by 4.5% in Fiscal Year 2023 and 4.0% each year thereafter that the assessment is levied up to a maximum assessment of $102.09 for Tier 1, $157.06 for Tier 2, $273.29 for Tier 3 and $157.06 per ERU, and a maximum assessment of $157.06 per ERU for non-single-family parcels that are not subject to the tiered assessment.

The non-ad valorem assessment is an annual assessment which will continue from year to year. For Fiscal Year 2023 and each year thereafter, the assessment will be collected by the Brevard County Tax Collector on the Ad Valorem Tax bill to be mailed in November. The annual assessment amount will include expenses incurred by the City in administering and collecting the assessment including fees imposed by the County property appraiser and tax collector and will be adjusted as necessary to account for any statutory discounts which are received when the City pays the aforementioned bills. The assessment is annually on the same bill as property taxes. Florida law provides that failure to pay the assessment will cause a tax certificate to be issued against the assessed property which may result in a loss of title. Annual adjustments to this assessment, including increases, may be implemented and the maximum assessment rates prescribed above are authorized to provide sufficient future revenues (in addition to other legally available funds) for the City to provide stormwater services, facilities and programs at appropriate levels of service.

If a person decides to appeal any decision made by the City Council with respect to any matter considered at the hearing, he or she will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City Clerk's Office at (321) 433-8488 at least two days in advance of the hearing. If you have any questions, please contact our Stormwater Division at (321) 433-8770 or stormwater@cocoafl.org, Monday through Friday between 8:00 a.m. and 4:00 p.m.


CITY COUNCIL
CITY OF COCOA, FLORIDA

NOTICE OF HEARING TO ADOPT NON-AD VALOREM FIRE PROTECTION ASSESSMENT RATES

Notice is hereby given that the City Council of the City of Cocoa, Florida, will conduct a public hearing to consider adopting updated Fire Protection Assessment non-ad valorem assessment rates to continue funding the provision of Fire Protection Services to properties within the City pursuant to Ordinance 29-2008 previously adopted by the City Council in 2008. The proposed updated rates will not exceed the maximum rate per EBU previously adopted by the City Council. The City Council may continue hearings on the matter and the date and time for continuance shall be announced at the public hearing without further written notice of the continued hearing to the public. The decision on whether to impose the assessment will be made either at this public hearing or as a consequence of the public hearing to be held, if necessary. Note: The proposed assessment, if adopted, will replace the current Fire Protection Assessment and will not be in addition to the current Fire Protection Assessment. Additionally, the City's Fire Protection Assessment was previously validated and held to be lawful by the Circuit Court of the Eighteenth Judicial Circuit, Florida, in Case No. 05-2018-CA-029719.

The public hearing will be held on August 23, 2022, at 6:00 PM or soon thereafter, at the Council Chambers, 65 Stone St., Cocoa, FL 32922, for the purpose of considering approval of the Preliminary and Final Assessment Resolutions and receiving public comment on the proposed assessment. All affected property owners have a right to attend and speak at the hearing and to file written objections with the City Council within 20 days of this notice. If a person decides to appeal any decision made by the City Council with respect to any matter considered at such hearing or hearing, he or she will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City Clerk's Office at (321) 433-8488 at least two days prior to the date of the hearing.

The non-ad valorem assessment will fund a portion of the cost of the provision of essential services relating to fire protection service within the City. A more specific description of the services is set forth in the Preliminary and Final Assessment Resolutions being considered for adoption by the City Council pursuant to Ordinance 29-2008. Copies of the above referenced Ordinance, Resolutions, and the non-ad valorem assessment roll are on file with and may be viewed during normal business hours at the Office of the City Manager or at the Office of the City Clerk, both located at 65 Stone Street, Cocoa, FL 32922.

Upon authorization of the non-ad valorem Fire Protection Assessment for fiscal years 2022/2023 and thereafter, the fire protection non-ad valorem assessment will be billed by and collected by the Brevard County Tax Collector on the ad valorem tax bill to be mailed in November in accordance with the tax bill collection method authorized by Section 197.3632, Florida Statutes, failure to pay the or any non-ad valorem assessment will cause a tax certificate to be issued against the property which may result in a loss of title to real property that is subject to the non-ad valorem assessment.

For the purpose of this proposed assessment, benefited parcels are all parcels within the City limits of the City of Cocoa except for Brevard County public schools, governmental parcels, rivers, lakes, rights-of-way, buffers and other properties exempted by law, agreement, or other lawful action of the City Council. In addition, parcels, or portions thereof, that are jurisdictional wetlands are exempt from the assessment. For the purposes of this assessment, the assessment for benefited parcels shall be determined based upon the availability of fire/rescue service to all parcels and the protection from loss of structures on improved parcels and the rate schedule is as follows:

Benefit Tier	Equivalent Benefit Unit (EBU)	Applicable to	Rate per EBU [1]	Maximum Rate per EBU
Residential (total assessment)	Per Dwelling Unit	Improved non-exempt residential parcels	$235.62	$306.12
Non-residential Response Readiness/ Availability	+ Improved Property - Per parcel + Un-improved Property - Per parcel or parcel equivalent (Parcel EBU)	All improved and un-improved non-exempt parcels	$166.59	$216.45
Protection from Loss of Structures	Per $5,000 of structure value, rounded down to nearest $5,000 (Structure EBU)	Improved non-exempt parcels	$10.44	$13.55

[1] Parcel EBU is the "per" equivalent benefit unit, representing a parcel for improved parcels and a parcel equivalent (EBU) for un-improved parcels. Un-improved parcel EBUs are determined by rounding down the acreage of the parcel to the nearest 5 acres and dividing by 5 acres to determine the number of EBUs for the parcel.

In addition, annual adjustments to this assessment, including increases, may be implemented and the maximum assessment rates prescribed above are authorized to provide sufficient future revenues (in addition to other legally available funds) to provide fire/rescue service at appropriate levels of service including, but not limited to, providing continued availability of fire/rescue service, protection from loss of property due to fire, and preservation of property values by virtue of the availability of fire/rescue services provided by the City of Cocoa. The total amount of revenue to be collected by the City of Cocoa in FY 2022/2023 under the non-ad valorem assessment program is estimated to be approximately $1.32 million.

If you have any questions, please contact Lora Holcomb, Deputy Finance Director, at (321) 433-8611, Monday through Friday between 8:00 a.m. and 5:00 p.m.


CITY COUNCIL
CITY OF COCOA, FLORIDA

CERTIFICATE
TO
NON-AD VALOREM ASSESSMENT ROLL

I HEREBY CERTIFY that I am the Mayor of the City of Cocoa or authorized agent of the City of Cocoa, Florida (the "City"); as such I have satisfied myself that all property included or includable on the non-ad valorem assessment roll for stormwater services (the "Non-Ad Valorem Assessment Roll") for the City is properly assessed so far as I have been able to ascertain; and that all required extensions on the above-described roll to show the non-ad valorem assessments attributable to the property listed therein have been made pursuant to law.

I FURTHER CERTIFY that, in accordance with the Uniform Assessment Collection Act, this certificate and the herein described Non-Ad Valorem Assessment Roll will be delivered to the Brevard County Tax Collector by September 15, 2022.

IN WITNESS WHEREOF, I have subscribed this certificate and directed the same to be delivered to the Brevard County Tax Collector and made part of the above described Non-Ad Valorem Assessment Roll this 23rd day of August, 2022.

CITY OF COCOA, FLORIDA

_____

Michael C. Blake
Mayor

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Legislation Details (With Text)

File #:	22-484	**Version:**	1	**Name:**	
Type:	Resolution			**Status:**	City Business
File created:	8/10/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Approve the Final Assessment Resolution 2022-077 for Fire Protection, for Fiscal Year 2023. (Finance Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	2022-077 Final Fire Assessment Resolution 2022.pdf CERTIFICATE to non-ad valorem assessment roll.pdf Fire Assessment Ad Proof.pdf mem_fy23_cocoa_fire_20220725.pdf Affidavit Fire Notice.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 10, 2022
Agenda Date: August 23, 2022
Prepared By: Colleen Campbell, MBA, Senior Budget Analyst
Through: Rebecca Bowman, MBA, CGFO, CGFM, Finance Director
Requested Action:
Approve the Final Assessment Resolution 2022-077 for Fire Protection, for Fiscal Year 2023.

BACKGROUND:

On May 9, 2006, City Council approved Ordinance 20-2006 (“Ordinance”) that adopted a fire protection assessment to partially fund the provision of fire protection and first response medical services (“rescue”) (collectively “fire protection services”) to properties within the City. Each year as part of the budgeting process, City Council must adopt the fire assessment rate schedule for the upcoming budget year.

In May 2013, the City entered into a contract with Stantec (Burton & Associates, Inc.), to conduct a study for purposes of updating the City’s fire protection assessment using a revised methodology that is based upon the availability of fire protection services to all parcels within City limits and the protection from loss of structures on improved parcels within City limits. In addition, the new methodology was used to develop a rate structure that will partially fund the City’s cost to provide fire protection services consistent with the authority set forth in the Ordinance. The results of the Study and recommendations are reported in the “FY2014 Non-Ad Valorem Fire Protection Assessment Study Final Report” dated August 7, 2013, which was presented to City Council on August 13, 2013.

The Study was updated in July 2015 with the objective to develop an updated methodology that will result in assessment rates that will recover a portion of the full cost of providing fire protection service to properties within the City limits in proportion to the benefit received and to more equitably apportion the cost to vacant properties. Calculations to determine the rate structure include all appropriate costs to operate the City's Fire Department except for distinct costs attributable to emergency medical services, as required by law. Revenue from the fire protection assessment will be utilized to sustain the current level of service and to partially fund construction of new fire stations in future fiscal years.

The Final Assessment Resolution for FY2017 was approved by City Council on September 6, 2016 with the recommendation of a 3% increase to the Fire Assessment rate, which was incorporated into the General Fund Sustainability Analysis. Based on this analysis, it was determined that the rate increase would provide sufficient revenues for projected operations, maintenance costs, and the Fire Department's capital improvement plan.

During the FY2018 Budget Workshop on June 29th, 2017, City Staff presented to City Council, Stantec' s (Burton and Associates) recommendation of a proposed 5% increase to the Fire Assessment rate, which was incorporated into the General Fund Sustainability Analysis. Based on this analysis, it was determined that the rate increase would provide sufficient revenues operations, maintenance costs, and the Fire Department's capital improvement plan. The additional 2% over the projected 3% which equals the proposed 5%, provided for the full amount of debt service incurred for the construction of the City's three (3) fire stations. The original debt service was projected at $425,000 per year; however, after securing the debt the annual debt service amounted to approximately $465,000 per year. On September 5, 2017, City Council approved Final Fire Assessment Resolution 2017-78, with the recommended 5% increase.

At the September 5, 2018 City Council meeting, Staff recommended that the City Council approve the Final Fire Assessment Resolution inclusive of a 3% increase. For the purposes of this non-ad valorem assessment, benefited parcels are all parcels within the jurisdictional limits of the City of Cocoa except for Brevard County public schools, governmental parcels, rivers, lakes, rights-of-way/buffers and other properties exempted by law, agreement, or other lawful action of the City Council. Additionally, parcels, or portions thereof, that are jurisdictional wetlands are exempt from the assessment.

On September 11, 2019 at the City Council Meeting, Staff recommended a 3% increase to Fire Assessment Rates for the FY2020 Budget. The rate increase was approved and the Final Assessment Resolution was Adopted by City Council, which supported 43% of the Fire Departments Budget.

On September 9, 2020 at the City Council Meeting, Staff recommended a 3% increase to Fire Assessment Rates for the FY2021 Budget. The rate increase was approved and the Final Assessment Resolution was Adopted by City Council, which supported 42% of the Fire Departments Budget.

On July 8, 2021 at the City Council Meeting, Staff recommended a 3% increase to Fire Assessment Rates for the FY2021 Budget. The rate increase was approved and the Final Assessment Resolution was Adopted by City Council, which supported 42% of the Fire Departments Budget.

At the July 8, 2022 Budget Workshop, City Council approved the recommendation by Stantec and City Staff, to build in a 3% increase to Fire Assessment Rates within the FY23 Budget. Per Ordinance it is required that the City Council first approve a Preliminary Assessment Resolution, which is attached to this agenda. After the approval of the Preliminary Assessment Resolution, the City Council is required to hold a Public Hearing, in accordance with the Ordinance and Florida Statutes, for purposes of adopting a Final Assessment Resolution formally approving the fire assessment rates. The Final Assessment Hearing will be held on August 23, 2022 at 6:00P.M., in City Council Chambers. The final approved rates are then submitted to the Brevard County Tax Collector for purposes of collecting the fire assessment on the annual non-ad valorem assessment portion of the annual property tax bill, no later than September 15, 2022.

For the purposes of this assessment, the assessment for benefited parcels shall be determined based upon the availability of fire/rescue services to all parcels and the protection from loss of structures on improved parcels.

The current fire protection assessment rates adopted by City Council last year are as follows:

Fiscal Year 2022:

Benefit Tier	Equivalent Benefit Unit (EBU)	Applicable to	Rate per EBU	Maximum Rate per EBU
Residential total assessment	Per Dwelling Unit	Improved non-exempt residential parcels	$228.76	$306.12
Non-residential: Response Readiness Availability	• Improved Property - Per parcel • Un-improved Property - Per parcel or parcel equivalent (Parcel EBU)	All improved and un-improved non-exempt parcels	$161.74	$216.45
Protection from Loss of Structures	Per $5,000 of structure value, rounded down to nearest $5,000. (Structure EBU)	Improved non-exempt parcels	$10.14	$13.55

Proposed Fiscal Year 2023 is set forth below:

Benefit Tier	Equivalent Benefit Unit (EBU)	Applicable to	Rate per EBU	Maximum Rate per EBU
Residential total assessment	Per Dwelling Unit	Improved non-exempt residential parcels	$235.62	$306.12
Non-residential: Response Readiness Availability	• Improved Property - Per parcel • Un-improved Property - Per parcel or parcel equivalent (Parcel EBU)	All improved and un-improved non-exempt parcels	$166.59	$216.45
Protection from Loss of Structures	Per $5,000 of structure value, rounded down to nearest $5,000. (Structure EBU)	Improved non-exempt parcels	$10.44	$13.55

Annual adjustments to this assessment, including increases, may be implemented and the maximum

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assessment rates presented above are authorized to provide sufficient future revenues (in addition to other legally available funds) to fund fire/rescue services at appropriate levels of service including, but not limited to, providing continued availability of fire insurance at favorable rates due to ISO rating, protection from loss of property due to fire, and preservation of property values by virtue of the availability of fire/rescue services provided by the City of Cocoa.

STRATEGIC PLAN CONNECTION:

Fiscal Sustainability is part of the City's strategic plan. The recommended rate structure will recover a portion of the cost of providing fire protection service to properties within the city limits for FY2023 and subsequent years in proportion to the benefit received from the fire protection service provided by the City. Costs not covered by the fire protection assessment must be met by other revenue sources within the General Fund.

BUDGETARY IMPACT:

The total amount gross revenue in FY2023 from this proposed fire protection assessment is estimated to be $3.30 million dollars, **which is ~45%** of FY2023 proposed budgeted fire protection services. Fire assessment budgeted at 95%, $3.13 million dollars, **which is ~43%** of the FY2023 proposed budgeted fire protection services.

PREVIOUS ACTION:

On May 9, 2006, City Council approved Ordinance 20-2006 that adopted a fire protection assessment to partially fund the provision of fire protection and first response medical services to properties within the City.

In reliance upon the Ordinance, the City Council has approved an annual fire assessment to fund a portion of the annual Fire Department budget since 2006.

RECOMMENDED MOTION:

Approve Final Fire Assessment Resolution 2022-077 and the Non-Ad Valorem Assessment Roll for Fire Protection Assessment Fiscal Year 2023.

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CITY OF COCOA, FLORIDA

FIRE PROTECTON ASSESSMENT
FINAL ASSESSMENT RESOLUTION

RESOLUTION NO. 2022-077

ADOPTED AUGUST 23, 2022

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RESOLUTION NO. 2022-077

A RESOLUTION OF THE CITY COUNCIL OF COCOA, FLORIDA, PROVIDING FOR THE ADOPTION OF THE FINAL ASSESSMENT RATE AND FINAL ASSESSMENT ROLL RELATING TO THE DELIVERY AND FUNDING OF FIRE PROTECTION SERVICES AND FACILITIES WITHIN THE CITY; PROVIDING FOR THE IMPOSITION OF NON-AD VALOREM SPECIAL ASSESSMENTS PURSUANT TO ORDINANCE 20-2006 WITHIN THE ENTIRE AREA OF THE CITY TO FUND FIRE PROTECTION SERVICES AND FACILITIES; ESTABLISHING FIRE ASSESSMENT RATES FOR CITY FISCAL YEAR 2022/2023; ESTIMATING THE FIRE PROTECTION COSTS TO BE RECOVERED THROUGH SUCH ASSESSMENTS; RESTATING THE MAXIMUM ASSESSMENT RATE AND METHOD OF APPORTIONING THE BENEFITS AND COSTS OF FIRE PROTECTION SERVICES AND FACILITIES AMONG AFFECTED REAL PROPERTY PREVIOUSLY ADOPTED BY THE CITY COUNCIL BY RESOLUTION 2015-057; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AS FOLLOWS:

ARTICLE I

INTRODUCTION

SECTION 1.01. AUTHORITY. This Resolution of the City of Cocoa, Florida is adopted pursuant to City Ordinance No. 20-2006, Sections 166.021, 166.041 and 197.3632, Florida Statutes, and other applicable provisions of law.

SECTION 1.02. DEFINITIONS. This Resolution constitutes the Final Rate Resolution as defined in the Assessment Ordinance. All capitalized words and terms not otherwise defined herein shall have the meaning set forth in the Assessment Ordinance.

As used in this Resolution, the following terms shall have the following meanings, unless the context hereof otherwise requires.

"Assessed Property" means all Parcels of land included on the Assessment Roll that receive a special benefit from the delivery of the fire protection services, programs or facilities identified or contemplated in this Resolution and included in the Assessment Roll.

"Assessment Study" means the City of Cocoa FY 2016 Fire Protection Assessment Study, dated August 5, 2015, as updated by the FY 2017 Fire Protection Assessment Study, dated July 25, 2016, prepared by Burton & Associates, as updated by the Technical Memorandums prepared by Stantec, dated August 4, 2019, August 9, 2018, August 6, 2019, August 18, 2020, and July 27, 2021 and July 26, 2022 as may be further amended in writing.

"Assessment Ordinance" means City Ordinance No. 20-2006, as may be amended from time to time, or its successor in function.

"City" means the City of Cocoa, Florida.

"City Clerk" means the clerk of the City Council.

"City Manager" means the chief administrative officer of the City, designated by the City Council to be responsible for coordinating Fire Protection Assessments or such person's designee.

"City Council" means the governing body of the City of Cocoa, Florida.

"Fiscal Year" means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the City.

"Tax Parcel" or "Parcel" means a parcel of property to which the Brevard County Property Appraiser has assigned a distinct ad valorem property tax identification number.

"Tax Roll" means the real property ad valorem tax roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

"Uniform Assessment Collection Act" means Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

SECTION 1.03. INTERPRETATION. Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Resolution; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Resolution. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

SECTION 1.04. CONFIRMATION OF PRELIMINARY ASSESSMENT RESOLUTION; FINDINGS. The Preliminary Assessment Resolution No. 2022-075 is

hereby ratified and confirmed. In addition, and supplemental to the findings adopted by the City Council in Ordinance No. 20-2006, it is hereby ascertained, determined and declared as follows:

(A) The constant preparedness to provide fire protection services, facilities and programs possesses a logical relationship to the use and enjoyment of real property by: (1) preserving and/or enhancing property values, marketability and ability to develop for all parcels; (2) protecting the value of the improvements and structures through the continual availability of fire control and provision of fire protection and associated rescue services; (3) protecting the life and safety of intended occupants in the use and enjoyment of real property; (4) lowering the cost of fire insurance by the presence of a professional and comprehensive fire protection and associated rescue program within the City; (5) providing protection for uninsured or underinsured property and property owners; and (6) containing the spread of fire incidents, sometimes occurring on unimproved property, with the potential to spread and endanger the value, structures and occupants of nearby property, thereby limiting liability.

(B) The City Council has carefully considered the Assessment Study which describes an apportionment methodology based upon the benefit conveyed by readiness-to-serve availability of fire protection service provided by the City to all parcels (improved and unimproved), and an additional benefit that this availability of service provides to improved property by the protection from the loss of the structures on

improved parcels through the ability to obtain insurance at attractive rates and the ability of the City to respond to and suppress a fire, and has considered the recent decision of the Florida Supreme Court, Morris v. City of Cape Coral, 163 So. 3d 1174 (Fla. 2015), which upheld a similar methodological approach recommended by Burton & Associates that apportioned costs based on the general availability of fire protection services to all property owners in tier 1, and in tier 2, provided the additional benefit to improved property owners of protecting structures from damage.

(C) Readiness to serve apportionment is based upon the premise that real property receives a substantial benefit from the mere presence and availability of on-call fire protection services and facilities. Such benefit is independent of, and enjoyed even in the absence of, a call or need for actual service. A given Tax Parcel is benefited over time by that availability alone, even when that Tax Parcel does not generate a call for service, through increased value and marketability, development potential, heightened use and enjoyment of the property, and reduced insurance premiums.

(D) The City expends substantial and measurable resources each year in maintaining a constant state of availability, readiness and preparedness which is the primary function of the Fire Department. Preparedness costs are generally those incurred in providing the personnel, operations and facilities necessary for continual, around-the-clock readiness to serve fire protection. Aside from annual inflationary adjustments and atypical expenditures necessitated in a given budget cycle, such costs remain relatively

static and unchanged from year to year and are therefore predictable with accuracy across consecutive budget cycles. Preparedness costs are not determined by the nature of an actual fire event or the whether a Tax Parcel is improved or un-improved and are incurred even when the department remains on standby.

(E) Preparedness costs associated with readiness to serve will be incurred without regard to the nature, extent or duration of actual deployments, or the improved or un-improved status of an individual Tax Parcel, and logically apply to every Tax Parcel (or parcel equivalent for un-improved parcels) of real property in the City. However, in the City's current fire assessment rate structure, residential properties are assessed an equal amount per dwelling unit and it was determined to maintain that same feature in the proposed assessment rate structure. Therefore, it was determined that residential dwelling units share in the preparedness costs equally per dwelling unit. Un-improved parcels are converted to parcel equivalents, or parcel equivalent benefit units (parcel EBUs) by dividing the subject parcel's acreage by the average size of improved parcels of the same property class. Preparedness costs are logically related to the number of Tax Parcels/Dwelling Units/parcel EBUs) which, in the aggregate, define the geography of the City and establish the basic service area within which the City must ensure preparedness and readiness to serve. Such preparedness costs are equitably and reasonably shared by all Tax Parcels/Dwelling Units /parcel EBUs on an equal basis since each Tax

Parcel/Dwelling Unit /parcel EBU benefits in a substantially similar degree from the readiness to serve aspect of such costs.

(F) All Tax Parcels/Dwelling Units/parcel EBUs within the City receive a substantially similar special benefit from the availability of fire protection services and facilities provided by the City, because the fire protection resources are maintained throughout the City at the same state of response readiness and availability to all Tax Parcels/Dwelling Units/parcel EBUs.

(G) The City maintains its fire protection resources at a level that provides a response readiness condition to respond to calls for service throughout the City at relatively equal levels of service. When needed, responses are made to calls for service without discrimination as to the property type, location within the City, or any other factors specific to the property requiring the service.

(H) Therefore, all properties, improved and unimproved, receive a special benefit from the very availability of the City's fire protection services and facilities, and improved Tax Parcels also receive an additional special benefit in the protection from the loss of structures on the property afforded by 1) the ability to obtain fire insurance at attractive rates, and 2) the availability of the fire protection services provided by the City to actually suppress a fire and protect the structure(s) on the property from damage and/or loss. The special benefits provided to all Tax Parcels/Dwelling Units/parcel EBUs,

improved and unimproved, by the availability of fire protection services and facilities provided by the City include but are not limited to:

(1) Availability of immediate response to fire,

(2) First responder medical aid to protect the life and safety of occupants,

(3) Containment of liability for emergency incidents on the subject Tax Parcels and the spread of fires to other property,

(4) Enhanced property value, and

(5) Enhanced marketability of and/or ability to develop property.

(I) In addition to the above special benefits that are conferred upon all Tax Parcels/Dwelling Units/parcel EBUs in the City, additional benefits are conferred upon improved Tax Parcels including protection from the loss of structures on the property due to fire by virtue of:

(1) The ability to obtain fire insurance and to obtain that insurance at attractive rates because of the availability of fire protection service, and

(2) Protection of loss of structures provided by the availability of fire suppression service provided by the City.

(J) Accordingly, the apportionment methodology described in the Assessment Study recognizes two tiers of benefit: Tier 1, the simple availability of fire protection service which is available equally without discrimination to all Tax Parcels/Dwelling

Units/parcel EBUs of all types within the City by virtue of the continued state of readiness to provide fire protection service that is maintained by the City, and Tier 2, the protection from the loss of structures on the property provided by the availability of fire protection service by the ability to obtain fire insurance, and the continued state of readiness maintained by the City so that when actual calls for service are received the City can provide fire suppression service to protect property owners from the loss of structures on their property. As with the Tier 1 readiness costs, the Tier 2 costs for the structure value on all improved residential parcels is allocated equally per dwelling unit to all dwelling units on those parcels; thus, the combined Tier 1 costs per dwelling unit plus the Tier 2 costs per dwelling unit result in a uniform, equal assessment rate per dwelling unit for all dwelling units on improved residential parcels.

(K) The fixed, non-discretionary costs of the Fire Department comprising Tier 1 are generally the personnel costs that must be incurred independent of the number of calls for service (which are total personnel costs less the portion of personnel costs involved in actually responding to calls for service) plus lease payments and capital expenses. The Assessment Study has determined that such Tier 1 costs represent approximately 60% of total fire protection costs.

(L) Tier 2 costs associated with protection from loss of structures on property include all other costs that are not included in Tier 1. Such Tier 2 costs include the portion of personnel costs involved in actually responding to calls for service, plus other costs

that are incurred relative to variable drivers such as fuel, equipment maintenance, and other operating costs. The Assessment Study has determined that such Tier 2 costs represent approximately 40% of total fire protection costs.

(M) Improved properties benefit from the protection from loss of the structures on the Tax Parcels. The protection from the loss of the structures due to fire is best represented by the protection from the loss of the investment in the structure(s) or the avoidance of the cost of replacing the structure(s) on the property. This protection from loss is conferred on such Tax Parcels by the availability of the fire protection services provided by the City either through the ability to obtain fire insurance or by the ability of the City to provide actual fire suppression services, whether or not a request for service is ever received.

(N) The actual investment or replacement cost of the structure(s) on the Tax Parcels in the City is not readily available and would require inordinate resources to determine and maintain over time. However, the structure values on tax parcels analyzed annually pursuant to state law and kept in the County Property Appraiser's database are readily available and are the best data reasonably available as a surrogate representation of the relative investment or replacement cost of structures on each Tax Parcel in the City as compared to the investment or replacement cost of structures on all Tax Parcels in the City. Therefore, it is appropriate to apportion the costs associated with

Tier 2 based upon the relative value of structures on improved Tax Parcels as contained in the Property Appraiser's database.

(O) Apportionment associated with Tier 2 based upon structure value inherently addresses the higher and proportionate benefit accruing to properties facing potentially greater financial loss in the event of fire incident and is a direct and logical means to allocate the costs and benefits of fire protection services and facilities associated with Tier 2.

(P) Besides cost and efficiency advantages associated with relying upon a publicly maintained database for apportionment metrics, a methodology utilizing structure value is advantageous because it is uniform across all Tax Parcels in its application of value as a proxy for measuring and allocating the relative benefit conveyed to each improved Tax Parcel. Tax Parcels with similar structure value are assessed with proportionate fairness, and the methodology provides an internal system of controls which is self-correcting in that valuation may change over time according to improvements, redevelopment and other factors and such changes in value will be addressed automatically each subsequent year in accordance with the latest structure value determined by the Property Appraiser. In Morris v. City of Cape Coral, 163 So. 3d 1174, 1179 (Fla. 2015), the Florida Supreme Court found that the "use of property appraiser's structure value is reasonable because the property appraiser is statutorily required to use replacement cost to determine this value."

(Q) Utilizing improvement value as one factor among several considered in a given methodology is fair, reasonable and equitable since the resulting assessments form a logical valuation base against which the special benefits and costs may be multiplied or determined.

(R) In the City's current fire assessment rate structure, residential properties are assessed an equal amount per dwelling unit. It was determined to maintain that same feature in the proposed assessment rate structure. Therefore, the assessment rate per residential dwelling unit was calculated as the sum of the Tier 1 costs for all improved residential parcels plus the Tier 2 costs for all residential parcels divided by the total number of dwelling units on all improved residential parcels to derive the average assessment per dwelling unit.

(S) The two-tiered apportionment methodology relies upon the property database maintained by the Property Appraiser in the normal course of performing his or her constitutional responsibilities. The database indicates the number of Tax Parcels within the City, each Tax Parcel's status as improved or unimproved, and the structure or improvement value associated with each. The number of Tax Parcels and structure value are updated by the Property Appraiser as properties within the City develop or combine, split or subdivide. Therefore, the fire assessments will be essentially self-correcting as the assessment roll is updated each year and unimproved Tax Parcels upon which structures have been constructed are reclassified as improved Tax Parcels and their

assessments are adjusted accordingly. Furthermore, this database can be accessed from year to year without extraordinary effort or cost to the City and provides a stable, reliable, reasonably accurate and cost-effective basis for annual administration and updating of the assessment program.

(T) Use of such publicly maintained data avoids duplication of efforts and the ongoing expenses associated with the City developing and maintaining apportionment metrics on its own, thereby resulting in cost-efficient administration and use of public resources. The City avoids expending substantial resources in determining the factors upon which the methodology is based and administered over time because it relies upon the database developed, compiled and maintained by the Property Appraiser each year during the course of performing his or her constitutional responsibilities, at no additional cost to the Property Appraiser or the taxpayers of the City.

(U) Furthermore, if the owner of Assessed Property owner felt in any given year that the benefit to their Tax Parcel was inequitable, there is an appeal process already in place and administered by the countywide value adjustment board by which to seek remedy. If the value adjustment board or Property Appraiser, through existing statutory procedures, reduces the structure valuation associated with a given Tax Parcel, the fire assessment would likewise be reduced, automatically, as the annual assessment roll is updated with no further effort required by the property owner - an additional example of the self-correcting, equitable and cost-efficient nature of the methodology.

Additionally, the City has also established an administrative appeal process to hear inequitable claims made by an owner of vacant Assessed Property pursuant to Resolution No. 2013-143.

(V) The City is not required to fully fund any given essential service or improvement cost through a special assessment. So long as the application of funds is for a public purpose and funds are legally available, the City may determine to fund all or a portion of an essential service or improvement, such as fire protection services and facilities, with general fund or other legally available revenues. The determination as to whether to contribute such other legally available revenues, and how much to contribute, lies solely in the discretion of the City Council.

(W) Stated in the alternative, there is no requirement that the City impose an assessment for the maximum amount of the budget which can be funded by special assessments. The City Council may annually determine as a matter of public policy and tax equity to impose Fire Protection Assessments at a rate less than necessary to fund all or any specific portion of the Fire Protection Assessed Costs. Costs incurred in providing fire protection services and facilities not otherwise funded through Fire Service Assessments may be paid with general fund or other legally available revenues. Such legally available revenues as a matter of policy may be applied exclusively to any tier or class of budget allocation or expense otherwise funded by a special assessment, in part to one tier or class of any budget allocation or expense, or in any combination thereof, and maintain the

validity of the apportionment. The flexibility is implemented through a policy and legislative determination employed through careful adherence to case law, statutory law, and the State Constitution, as well as the exercise of annual budget responsibility, discretion and equity vested in the City Council. However, in no event shall any annual rate of Fire Protection Assessment exceed the maximum assessment rate previously noticed to the affected land owners without further notice and public hearing pursuant to the Assessment Ordinance.

(X) The findings and legislative determinations contained herein are premised upon information, input, analysis and review from City staff, officials and experts, and public comment, as well as careful consideration by the City Council. A combination of the foregoing yields a reasoned apportionment methodology premised upon the two distinct tiers or classes of apportionment allocation described herein. The two tiers, when used together, provide a legal, flexible and equitable means for the City to fairly and reasonably allocate assessable benefits and costs among Assessed Property in the City.

(Y) The apportionment among Tax Parcels of a portion of the City's annual budget for fire protection services, facilities and programs necessary for providing the continual readiness to provide fire protection is hereby determined to be a fair and reasonable means to annually allocate and share the benefits and costs associated therewith.

(Z) The benefits derived from the continual readiness to provide fire protection services, facilities and programs as to each Tax Parcel subject to the Fire Service Assessments

equal or exceed the amount of the special assessments levied and imposed hereunder. The Assessment for any Tax Parcel within the City in employing such an approach also does not exceed the proportional benefits that such Tax Parcel will receive compared to any other Tax Parcel so assessed within the City.

(AA) The City Council hereby finds and determines that the Fire Protection Assessments to be imposed in accordance with this Resolution provide a proper and equitable method of funding fire protection services and facilities by fairly and reasonably allocating a portion of the costs associated therewith among specially benefited property.

(BB) The City Council also recognizes and finds that the City of Cocoa's fire assessment was recently validated on August 18, 2016 by the Circuit Court of the Eighteenth Judicial Circuit in and for Brevard County, Florida in case No. 05-2016-CA-025719 for purposes of securing funding for the construction of three new fire stations.

ARTICLE II

NOTICE AND PUBLIC HEARING

SECTION 2.01. ESTIMATED FIRE PROTECTION ASSESSED COST.

(A) The estimated Fire Protection Assessed Cost to be recovered through Fire Protection Assessments for the Fiscal Year commencing October 1, 2022, is approximately $3.30 million. The Fire Protection Assessed Cost will be funded through the imposition of Fire Protection Assessments, as provided herein.

SECTION 2.02. ASSESSMENT ROLL. The Preliminary Assessment Roll, which was approved by Resolution No. 2022-075, and which is currently on file with the City Clerk and incorporated herein by this reference, is hereby approved, as may have been expressly directed by the City Council to be modified during the hearing at which this Resolution was adopted by the City Council. The Assessment Roll shall include all Tax Parcels within the City which are not otherwise exempted from payment of the Fire Protection Assessments hereunder.

ARTICLE III

ASSESSMENTS

SECTION 3.01. FIRE PROTECTION ASSESSMENTS TO BE IMPOSED THROUGHOUT CITY. Fire Protection Assessments are to be imposed throughout the entire area contained within the boundaries of the City in accordance with the Assessment Ordinance and the Final Assessment Resolution.

SECTION 3.02. IMPOSITION OF ASSESSMENTS. Fire Protection Assessments shall be imposed against property located within the City, the annual amount of which shall be computed for each Tax Parcel in accordance with this Article III. When imposed, the Fire Service Assessment for each Fiscal Year shall constitute a lien upon Assessed Property equal in rank and dignity with the liens of all state, county,

district or municipal taxes and other non-ad valorem assessments until paid, as provided in the Assessment Ordinance and in accordance with Florida law.

SECTION 3.03. APPORTIONMENT.

(A) The Assessment Study is hereby ratified and incorporated herein in its entirety. The apportionment method set forth therein is hereby ratified as the apportionment method for the Fire Protection Assessments authorized by this Resolution. The Final Assessment Rates for Fiscal Year 2022/2023, which are set forth in the following rate schedule, are hereby levied and imposed on all Tax Parcels described in the Assessment Role as follows:

Benefit Tier	Equivalent Benefit Unit (EBU)	Applicable to	Rate per EBU	Maximum Rate per EBU
Residential total assessment	Per Dwelling Unit	Improved non-exempt residential parcels	$ 235.62	$306.12
Non-residential: Response Readiness Availability	• Improved Property - Per parcel • Un-improved Property - Per parcel or parcel equivalent (Parcel EBU)*	All improved and un-improved non-exempt parcels	$ 166.59	$216.45
Protection from Loss of Structures	Per $5,000 of structure value (Structure EBU) rounded down to the nearest $5,000.	Improved non-exempt parcels	$10.44	$13.55

* The minimum size per parcel equivalent was determined to be 5 acres based upon an evaluation of the range of size of developed parcels. Thus, it was determined that un-improved properties will be converted to EBU by rounding down the acreage of the parcel to the nearest 5 acres and dividing by 5 acres/EBU to determine the number of EBUs for the parcel.

(B) The Maximum Assessment Rate for the residential and non-residential assessment set forth in the rate schedule were previously approved by the City Council

by Resolution No. 2015-057 and are hereby being restated and shall continue to be the maximum rate for this next and all subsequent City fiscal years until otherwise modified by the City Council.

(C) Based upon the projections concerning net revenue requirements set forth in the Assessment Study, the Assessment Roll for subsequent Fiscal Years may reflect increases in the assessment rates up to and including the maximum rates presented in the rate schedule in Section 3.03.(A).

(D) The amount of the annual Fire Protection Assessment imposed against Assessed Property may include a pro rata share of the costs and expenses associated with collection and administration of the Fire Protection Assessments each year.

(E) It is hereby ascertained, determined, and declared that the method of determining the Fire Protection Assessments as set forth in this Final Assessment Resolution is a fair and reasonable method of apportioning the Fire Protection Assessed Cost among Assessed Property.

SECTION 3.04. APPLICATION OF ASSESSMENT PROCEEDS. Proceeds derived by the City from the Fire Protection Assessments shall be utilized for the provision of fire protection services and facilities. In the event there is any fund balance remaining at the end of the 2022/2023 Fiscal Year, such balance shall be carried forward

and thereafter used only to fund fire protection related services, facilities, improvements and programs.

SECTION 3.05. COLLECTION OF ASSESSMENTS. Fire Protection Assessments for the 2022/2023 Fiscal Year shall be collected pursuant to the direct billing method provided for in the Assessment Ordinance, and each year thereafter pursuant to the Uniform Assessment Collection Act as provided for in the Assessment Ordinance, unless otherwise determined by the City Council.

SECTION 3.06. EXEMPTION.

(A) Tax Parcels assigned the following Florida Department of Revenue property use codes (DOR codes) by the Property Appraiser are not subject to the Fire Protection Assessment contemplated hereunder; provided, however, that the costs associated with the exemption of such Tax Parcels shall be funded through other legally available revenues of the City and not through Fire Protection Assessments imposed hereunder.

DOR Code	DOR Description	Parcel Count
465	CONDOMINIUM - MISCELLANEOUS (NOT COVERED	59
499	NON-TAXABLE CONDOMINIUM COMMON AREA	60
8010	SCHOOL (PUBLICLY OWNED) - VACANT	1
8020	COUNTY OWNED LAND - VACANT (THAT DOES	5
8040	HOUSING AUTHORITY - VACANT	13
8060	STATE OWNED LAND - VACANT (THAT DOES NOT	15
8080	MUNICIPALLY OWNED LAND - VACANT (THAT	78
8300	SCHOOL (PUBLICLY OWNED) - IMPROVED	7
8400	COLLEGE	1
8610	COUNTY OWNED LAND - IMPROVED (THAT DOES	6
8640	BREVARD COUNTY-OWNED (AGENCY OTHER THAN	1
8660	HOUSING AUTHORITY - IMPROVED	37
8710	STATE OWNED LAND - IMPROVED (THAT DOES	4
8810	FEDERALLY OWNED LAND - IMPROVED (THAT	1
8910	MUNICIPALLY OWNED LAND - IMPROVED (THAT	33
9105	LOCALLY-ASSESSED RAILROAD PROPERTY	14
9170	WATER & SEWER SERVICE	3
9400	RIGHT OF WAY STREET, ROAD, ETC - PUBLIC	-
9410	RIGHT OF WAY STREET, ROAD, ETC - PRIVATE	1
9499	ASSESSMENT ARREARS	-
9500	RIVERS AND LAKES	1
9510	SUBMERGED LANDS	2

However, one parcel with a 9105-land use code may be assessed because a building is constructed on the parcel. In addition, vacant (un-improved) parcels that contain jurisdictional wetlands are not assessed for the portion of the parcels that are wetlands as those portions do not receive material benefit from fire protection service and those portions are considered to be exempt from the fire protection assessments.

(B) Tax Parcel classifications indicative of special designations used by the Property Appraiser for recordkeeping purposes which do not represent actual or assessable Tax Parcels are not subject to the Fire Protection Assessments contemplated hereunder (e.g. header records).

(C) Notwithstanding anything herein to the contrary, the City Council reserves the right and ability in the future to impose Fire Protection Assessments against Tax Parcels determined to be exempt hereunder to the extent permitted by law or otherwise in the event required or directed to do so by a court of competent jurisdiction.

3.07 EFFECT OF FINAL RESOLUTION. The adoption of this Final Assessment Resolution shall be the final adjudication of the issues presented herein and in the Preliminary Assessment Resolution including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property; the method of apportionment and assessment; the initial rate of assessment; the levy and lien of the fire protection assessment; the method by which the assessments will be computed, the Assessment Roll, and the Maximum Assessment Rate unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of City Council action on this Final Assessment Resolution. However, this Section shall not be construed or interpreted as conflicting with or abrogating the provisions of Section 75.09, Florida Statutes, that provides that the City's bond validation judgment shall forever be conclusive as to all matters adjudicated against the City and all parties affected thereby, including all property owners, taxpayers and citizens of the City, and all others having or claiming any right, title or interest in property to be affected by the issuance of said bonds, certificates or other obligations, or to be affected in any way thereby, and the validity of any future City bonds, certificates or other obligations or of any taxes,

assessments or revenues pledged for the payment thereof, or of the proceedings authorizing the issuance thereof, including any remedies provided for their collection, shall never be called in question in any court by any person or party. In addition, nothing contained in this Section shall be construed as prohibiting the City from presenting any legal arguments that actions filed against the validity or effectiveness of the City's fire assessment have been waived, estopped, forfeited or bared by the actions or inactions of any plaintiff, previous legal actions or the passage of time.

3.08 DELIVERY TO TAX COLLECTOR. The Assessment Roll, as approved by this Final Assessment Resolution, shall be delivered to the Tax Collector by the City Manager or his designee, as required by the Uniform Assessment Collection Act.

ARTICLE IV

GENERAL PROVISIONS

SECTION 4.01. CONFLICTS. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict. However, nothing herein is intended to repeal or modify the administrative appeal process for vacant (unimproved) land which is set forth in Resolution No. 2013-143. Upon adoption of the 2022/2023 Final Assessment Resolution, Resolution No. 2013-143 shall be deemed supplemental to the 2022/2023 Final Assessment Resolution subject to severability as set forth in Section 3(b) of Resolution No. 2013-143.

SECTION 4.02. SEVERABILITY. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are declared to be severable.

SECTION 4.03. EFFECTIVE DATE. This Resolution shall take effect immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED this 23rd day of August, 2022.

CITY COUNCIL OF
COCOA, FLORIDA

By: _____
Michael C. Blake., Mayor

Attest:

By: _____
Carie Shealy, MMC, City Clerk

APPENDIX A

PROOF OF PUBLICATION

APPENDIX B

AFFIDAVIT OF MAILING

CERTIFICATE
TO
NON-AD VALOREM ASSESSMENT ROLL

I HEREBY CERTIFY that I am the Mayor of the City of Cocoa or authorized agent of the City of Cocoa, Florida (the "City"); as such I have satisfied myself that all property included or includable on the non-ad valorem assessment roll for fire protection services (the "Non-Ad Valorem Assessment Roll") for the City is properly assessed so far as I have been able to ascertain; and that all required extensions on the above-described roll to show the non-ad valorem assessments attributable to the property listed therein have been made pursuant to law.

I FURTHER CERTIFY that, in accordance with the Uniform Assessment Collection Act, this certificate and the herein described Non-Ad Valorem Assessment Roll will be delivered to the Brevard County Tax Collector by September 15, 2022.

IN WITNESS WHEREOF, I have subscribed this certificate and directed the same to be delivered to the Brevard County Tax Collector and made part of the above described Non-Ad Valorem Assessment Roll this 23rd day of August, 2022.

CITY OF COCOA, FLORIDA

_____

Michael C Blake.
Mayor

A Daily Publication By:

FLORIDA TODAY
FLORIDATODAY.com
A GANNETT COMPANY

CITY OF COCOA TE
65 STONE ST
COCOA, FL 32922
ATTN CARIE SHEALY

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

8/3/2022

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 3RD DAY OF AUGUST 2022 by legal clerk who is personally known to me

Affiant

Notary State of Wisconsin County of Brown

1-7-25

My commission expires

KATHLEEN ALLEN
Notary Public
State of Wisconsin

PUBLICATION COST: $934.40
AD NO: GCI0922668
CUSTOMER NO: CIT180
PO#: PUBLIC NOTICE

NOTICE OF HEARING TO ADOPT NON-AD VALOREM FIRE PROTECTION ASSESSMENT RATES

Notice is hereby given that the City Council of the City of Cocoa, Florida, will conduct a public hearing to consider adopting updated Fire Protection Assessment non-ad valorem assessment rates to continue funding the provision of Fire Protection Services to properties within the City pursuant to Ordinance 20-2006 previously adopted by the City Council in 2006. The proposed updated rates will not exceed the maximum rate per EBU previously adopted by the City Council. The City Council may continue hearings on the matter and the date and time for continuance shall be announced at the public hearing without further written notice of the continued hearing to the public. The decision on whether to impose the assessment will be made either at this public hearing at the time and date listed below or at a continuance of the public hearing to be held, if necessary. Note: The proposed assessment, if adopted, will replace the current Fire Protection Assessment and will not be in addition to the current Fire Protection Assessment. Additionally, the City's Fire Protection Assessment was previously validated and held to be lawful by the Circuit Court of the Eighteenth Judicial Circuit, Florida, in Case No. 05-2016-CA-025719.

The public hearing will be held on August 23, 2022, at 6:00 PM or soon thereafter, at the Council Chambers, 65 Stone St., Cocoa, FL 32922, for the purpose of considering approval of the Final Assessment Resolution and receiving public comment on the proposed assessment. All affected property owners have a right to attend and speak at the hearing and to file written objections and/or comments with the City Council within 20 days of this notice. If a person decides to appeal any decision made by the City Council with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City Clerk's Office at (321) 433-8488 at least two days prior to the date of the hearing.

The non-ad valorem assessment will fund a portion of the cost of the provision of essential services relating to fire protection service within the City. A more specific description of the services is set forth in the Preliminary and Final Assessment Resolutions being considered for adoption by the City Council pursuant to Ordinance 20-2006. Copies of the above-referenced Ordinance, Resolutions, and the non-ad valorem assessment roll are on file with and may be viewed during normal business hours at the Office of the City Manager or at the Office of the City Clerk, both located at 65 Stone Street, Cocoa, FL 32922.

Upon authorization of the non-ad valorem Fire Protection Assessment for fiscal year 2022/2023 and thereafter, the fire protection non-ad valorem assessment will be billed by and collected by the Brevard County Tax Collector on the ad valorem tax bill to be mailed in November. In accordance with the tax bill collection method authorized by Section 197.3632, Florida Statutes, failure to pay this or any non-ad valorem assessment will cause a tax certificate to be issued against the property which may result in a loss of title to real property that is subject to the non-ad valorem assessment.

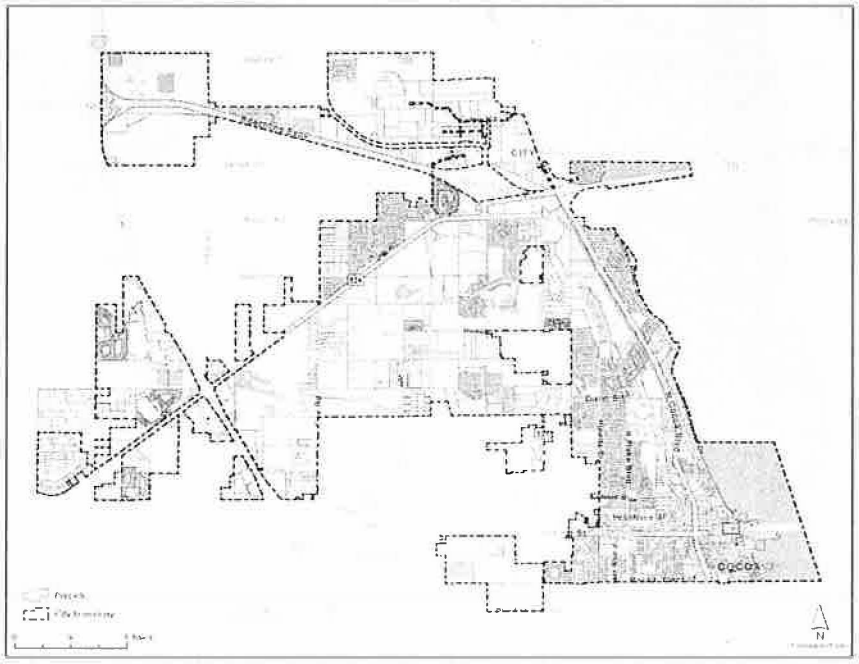
For the purpose of this non-ad valorem assessment, benefited parcels are all parcels within the City limits of the City of Cocoa except for Brevard County public schools, governmental parcels, rivers, lakes, rights-of-way/buffers and other properties exempted by law, agreement, or other lawful action of the City Council. In addition, parcels, or portions thereof, that are jurisdictional wetlands are exempt from the assessment. For the purposes of this assessment, the assessment for benefited parcels shall be determined based upon the availability of fire/rescue service to all parcels and the protection from loss of structures on improved parcels and the rate schedule is as follows:

Benefit Tier	Equivalent Benefit Unit (EBU)	Applicable to	Rate per EBU (1)	Maximum Rate per EBU
Residential total assessment	Per Dwelling Unit	Improved non-exempt residential parcels	$235.62	$306.12
Non-residential: Response Readiness Availability	• Improved Property - Per parcel • Un-improved Property - Per parcel or parcel equivalent (Parcel EBU)	All improved and un-improved non-exempt parcels	$166.59	$216.45
Protection from Loss of Structures	Per $5,000 of structure value, rounded down to nearest $5,000. (Structure EBU)	Improved non-exempt parcels	$10.44	$13.55

(1) Parcel EBU is the Tier 1 equivalent benefit unit representing a parcel for improved parcels and a parcel equivalent (EBU) for un-improved parcels. Un-improved parcel EBUs are determined by rounding down the acreage of the parcel to the nearest 5 acres and dividing by 5 acres to determine the number of EBUs for the parcel.

In addition, annual adjustments to this assessment, including increases, may be implemented and the maximum assessment rates presented above are authorized to provide sufficient future revenues (in addition to other legally available funds) to provide fire/rescue services at appropriate levels of service including, but not limited to, providing continued availability of fire insurance at favorable rates, protection from loss of property due to fire, and preservation of property values by virtue of the availability of fire/rescue services provided by the City of Cocoa. The total amount of revenue to be collected by the City of Cocoa in FY 2022/2023 under the non-ad valorem assessment program is estimated to be approximately $3.30 million.

If you have any questions, please contact Lora Howell, Deputy Finance Director, at (321) 433-8611, Monday through Friday between 8:00 a.m. and 5:00 p.m.



CITY COUNCIL
CITY OF COCOA, FLORIDA

FT-GCI0922668-01

Stantec

Technical Memorandum

To:	Stockton Whitten, City Manager 85 Stone Street Cocoa, FL 32922	From:	Peter Napoli, Senior Consultant 777 S Harbour Island Boulevard Suite 600 Tampa FL 33602
Project/File:	224801923	Date:	July 25, 2022

Reference: City of Cocoa Fiscal Year 2023 Fire Assessment Roll Update

Background

Stantec Consulting Services Inc. (Stantec) completed a Fire Assessment Study for the City of Cocoa (City) that was implemented in Fiscal Year (FY) 2014. Since 2015, annual updates have been performed for the Fire Assessment program and Non-Ad Valorem Assessment. This Technical Memorandum presents the results of the analysis for the Fire Assessment to be implemented for FY 2023.

Scope

The scope for the FY 2023 Fire Assessment Roll Update included the following:

1) Evaluate the need for increased Fire Assessment revenue to support the General Fund Financial Sustainability Analysis, the results of which are being delivered in a separate Report; and
2) Obtain Brevard County Property Appraiser parcel data on June 1 and July 1 and use as the basis an updated Assessment Roll.
3) Prepare an updated Non-Ad Valorem Fire Assessment Roll to include the revenue increase in the assessment to all assessed parcels as indicated in the results section of this memo.
4) Note that there is no change to the Fire Assessment methodology for FY 2023.

Results

Based upon the analysis conducted in this year's update, the Fire Assessment rates should increase by 3.00% as shown in the table below.

	FY 2022	FY 2023	Increase %
Residential Rate per Dwelling Unit	$ 228.76	$ 235.62	3.00%
Tier 1 Rate per Parcel EBU	$ 161.74	$ 166.59	3.00%
Tier 2 Rate per Parcel EBU	$ 10.14	$ 10.44	3.00%

Reference: City of Cocoa Fiscal Year 2023 Fire Assessment Roll Update

The updated Non-Ad Valorem Assessment Roll submitted to City Staff for review indicates a total billed assessment revenue of $3.3 million or estimated collected revenue of $3.1 million at the assumed 95% collection rate for FY 2023. These revenues, in combination with a subsidy from the General Fund for the remaining costs of providing Fire Protection services will sufficiently fund the Fire Department's projected operations and maintenance costs and capital improvement program. The General Fund Sustainability Analysis performed separately from this project provides for the projected financial dynamics of the General Fund and shows the sustainable 10-year projection with the 3% increased Fire Assessment rate adjustments included therein.

The City's projected Fire Assessment revenue must provide sufficient funding for the annual debt service requirements of the Series 2016 Fire Assessment Bonds (Fire Stations) and the Series 2014 Note (Fire Apparatus). This year's analysis confirms the City's projected Fire Assessment revenues will maintain the City's policy, requiring revenues at least 1.25 times greater than the annual debt service requirements, and ensure the adequate funding of the debt service requirements for the debt service amount due in FY 2023.

A Fire Assessment Roll is being delivered separately to reflect all current assessable parcels, along with a full list of exempted parcels for staff use. Any parcels that are receiving the Fire Assessment for the first time are required to be noticed via first class mail and a list of those parcels have been provided to the City. A separate roll is delivered for use by the Brevard County Property Appraiser and Tax Collector for TRIM purposes. Upon review and any revisions, the final roll will be delivered for the FY 2023 tax bills.

If you have any questions or would like to discuss this Technical Memorandum, please do not hesitate to call me at (904) 671-0117.

Respectfully yours,

STANTEC CONSULTING SERVICES INC.



Peter Napoli
Senior Consultant
Mobile: 904-671-0117
Peter.napoli@stantec.com

stantec.com

AFFIDAVIT OF MAILING

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared Rebecca Bowman, City of Cocoa Finance Director, whose business address is 65 Stone Street, Cocoa, Florida after being duly sworn, deposes and say:

I, Rebecca Bowman, have been designated by the City Manager of Cocoa, Florida, to mail the notices required by Section 2.05 of Resolution No. 2022-075, adopted by the City Council of Cocoa, Florida on August 09, 2022 (the "Preliminary Assessment Resolution"). On or before August 3, 2022, I mailed or directed the mailing of two hundred and fifty seven notices in accordance with Section 2.05 of the Preliminary Assessment Resolution by first class mail, to each owner of property within the City of Cocoa Fire Assessment Area who was required to receive such notice in conformance with the requirements of Ordinance No. 20-2006, enacted by the City Council of Cocoa, Florida, at the address shown on the real property assessment tax roll maintained by the Brevard County Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

FURTHER AFFIANTS SAYETH NOT.

Rebecca J. Bowman,
Finance Director
City of Cocoa

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me by Rebecca Bowman, Finance Director of the City of Cocoa, Florida who is ✓ personally known to me or ____ who has produced _____as identification and did take an oath.

CARIE E. SHEALY
Notary Public
State of Florida
Comm# HH144585
Expires 8/30/2025

Notary Signature and Stamp

Legislation Details (With Text)

File #:	22-447	**Version:**	1	**Name:**	
Type:	Resolution			**Status:**	City Business
File created:	7/29/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Approve Resolution 2022-085 revising the building permit fee schedule related to the issuance of building permits pursuant to the Florida Building Code repealing Resolution 2021-058 in its entirety. (Community Services Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Resolution 2022-085: (Modify building permit fee schedule).pdf EXHIBIT A (Revised 8-2022).pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: July 29, 2022
Agenda Date: August 23, 2022
Prepared By: Charlene Neuterman, Community Services Director
Through: Stockton Whitten, City Manager
Requested Action:
Approve Resolution 2022-085 revising the building permit fee schedule related to the issuance of building permits pursuant to the Florida Building Cocoa repealing Resolution 2021-058 in its entirety.

BACKGROUND:

Under Florida's regulatory system of building construction, local governments are responsible for administering and enforcing the building code provisions of the Florida Building Code. Toward that end, Section 553.80, *Florida Statues,* enables local governments to provide a schedule of fees for the purposes of carrying out its statutory responsibility to enforce the Florida Building Code. The fee schedule shall be based on direct costs and reasonable indirect costs associated with review of building plans, building inspections, re-inspections and building permit processing; building code enforcement; and fire inspections associated with new construction. building code enforcement; and fire inspections associated with new construction. The fees also include training costs associated with the enforcement of the Florida Building Code and enforcement action pertaining to unlicensed contractors.

Since March 1, 2021, the City has been using Citizenserve as its online permitting platform. This platform provides the applicant the ability to perform all services online, from application to payment, to inspection and final closeout. Overall, the contractors and residents are receptive of the new platform and its performance. The Staff still continue to assist any residents who request assistance

due to not having a computer to enter permit applications. At the July 13, 2021 Council meeting, Council approved Resolution 2021-058, modifying the Permit Fee Schedule for the City.

In determining the updated fee schedule, Staff reviewed the fees charged by other municipalities and the County. The updated fees are consistent with the fees charged by the other municipalities and the County. Staff also made updates to the permit types to be clearer and more consistent for the contractors/residents applying. An example of this modification is the consolidation of the Fence/Masonry Wall Permit and the Retaining Wall Permit and the Sign (Non-illuminated) and Sign (temporary). These are now consolidated to be easier for the contractors/residents to locate on the Permit Type listing. The base fees for Residential and Commercial Permits remains unchanged at $75 and $100. The $25 Permit Application Processing Fee remains unchanged. Solar photovoltaic and thermal permits will not be charged the base permit fees, only the application and surcharge fees.

Summary of changes are listed below:

- Residential Valuation increased from $3.25 per $1,000 of construction value to $4.00 per $1,000 of construction value.
- Commercial Valuation increased from $5.25 per $1,000 of construction value to $6.00 per $1,000 of construction value.
- All commercial permits will be charged based on valuation for each permit except a Construction Trailer permit.
- The following residential permits will be charged a flat fee for the services requested:
    - Concrete slab
    - Construction trailer
    - Demolition
    - Driveway
    - Exterior Siding
    - Fence/Masonry Wall/Retaining Wall
    - Hurricane Shutters (NON-electric)
    - HVAC (replacement only for ONE AHU and/ONE Condenser Unit) - anything over one unit will be charged based on value
    - Land Clearing
    - Shed
    - Signs (NON-illuminated/temporary)
    - Swimming Pool (above ground)
    - Swimming Pool repair
    - Tent (temporary)
- All other Residential Permits will be charged based on valuation.
- The “After-Hours” and “Same Day” inspections have been removed.
- Reinspection fees changed to the following schedule:
    - 1st re-inspection (FREE)
    - 2nd re-inspection ($75)
    - 3rd re-inspection ($100)
    - 4th re-inspection and higher ($125)
- Addition of Electrical Meter Reset Inspection Fee ($50) - this fee is for our Building Official to inspect an electrical meter prior to FPL reconnecting service to the location.

Staff is requesting approval of Resolution 2022-___ revising the City of Cocoa permit fee schedule with the updated changes.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

Budgeted N/A

PREVIOUS ACTION:

Council approved Resolution 2021-058, updating the Building Permit Fees on July 13, 2021 (21-479).

RECOMMENDED MOTION:

Approve Resolution 2022-085 revising the building permit fee schedule related to the issuance of building permits pursuant to the Florida Building Cocoa repealing Resolution 2021-058 in its entirety.

RESOLUTION NO. 2022-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, REVISING THE BUILDING PERMIT FEE SCHEDULE RELATED TO THE ISSUANCE OF BUILDING PERMITS PURSUANT TO THE FLORIDA BUILDING CODE; REPEALING RESOLUTION 2021-058 IN ITS ENTIRETY; PROVIDING FOR THE REPEAL OF PRIOR, INCONSISTENT RESOLUTIONS; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, section 166.222, Florida Statutes, provides that the City Council may establish a schedule of reasonable fees in order to defer the costs of inspection and enforcement of the provisions of the Florida Building Code; and

WHEREAS, the City Council previously adopted Resolution 2021-058, which set forth the City's various fees related to Florida Building Code permitting and processing; and

WHEREAS, the City Council desires to repeal Resolutions 2021-058 in its entirety and to adopt the updated and revised fee schedule set forth herein; and

WHEREAS, the City Council deems this Resolution to be in the best interest of the health, safety and welfare of the citizens of the City of Cocoa.

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

SECTION 1. Recitals. The above recitals are hereby deemed true and correct and by this reference are adopted by the City of Cocoa as though fully set forth herein.

SECTION 2. Adoption of Fee Schedule. Pursuant to its authority set forth in section 166.222, Florida Statutes, the City Council of the City of Cocoa hereby adopts the fee schedule set forth in **Exhibit "A,"** attached hereto and fully incorporated herein by this reference.

SECTION 3. Repeal of Prior Inconsistent Resolutions. City of Cocoa Resolution 2021-058 is hereby repealed in its entirety, and any other prior resolutions inconsistent with this Resolution are hereby repealed to the extent of the conflict.

SECTION 4. Severability. If any section, clause, phrase, word, or provision is for any reason held invalid or unconstitutional by a court of competent jurisdiction, whether for

substantive or procedural reasons, 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 Resolution.

SECTION 5. Effective Date. This resolution shall become effective **October 1, 2022** upon adoption by the City Council of the City of Cocoa.

ADOPTED by the City Council of the City of Cocoa, Florida, in a City Council Workshop assembled on the 23rd of August, 2022.

_____
Michael C. Blake, Mayor

ATTEST:

_____
Carie Shealy, City Clerk

Revised 8-9-2022

"EXHIBIT A"

Residential Occupancy Construction*		
Permit Type	**Valuation**	
	First $1,000 of project cost	**$1,001 +**
Building	$75	$75, plus $4/$1,000
Non-Residential (Commercial) Construction*		
Permit Type	**Valuation**	
	First $1,000 of project cost	**$1,001 +**
Building	$100	$100, plus $6/$1,000

*There shall be no building, electric and plumbing permit fees for any building, electric or plumbing permit application filed with the City related to the installation of solar photovoltaic and thermal systems.

*There is a State Surcharge of 2.5% of the "building" permit cost or $4.00, whichever is greater for all building permits.

Building Code (Residential & Non-Residential) - Chapter 170	
Permit Application Processing Fee	$25.00
Temporary Certificate of Occupancy	$100 per request
Extension of Time	$50.00
Plan Revisions	$75 per request
Re-inspection Fee (1st re-inspection is free)	$75 (2nd), $100 (3rd), $125 (4th and above)
Re-Issue Permit (change of contractor, subcontractor, owner)	$50.00
Electrical Meter Reset Inspection	$50
Review and stamping additional sets of plans	$10.00 per page
Work without a permit**	Up to 4 times the permit fee amount
Failure to schedule final inspection	$100
Flood Plain Review (Chapter 174)	$75
Adding Electrical Subcontractor to permit	$75
Adding Plumbing Subcontractor to permit	$75
Adding Mechanical Subcontractor to permit	$75
Change of Contractor	$50

**This provision shall not apply to emergency work when delay would clearly have placed life or property in imminent danger. However, in all cases the required permit(s) must be submitted within two (2) business days and any unreasonable delay in obtaining those permit(s) shall result in a penalty of one hundred percent (100%) of the usual permit fee in addition to the required permit fees. The Building Official may grant extensions of time or waive penalty fees when justifiable cause has been demonstrated in writing.

There will be no after hours, specific time or same day inspections scheduled. AM or PM will be the only selection option and inspections are conducted between 8:00AM and 4:00PM, during the City's operational days.

Permit fee refunds: No refund will be granted on any permit with a fee of less than the base residential fee or base commercial fee. For permits having a fee in excess of the base permit fee, up to fifty percent (50%) of the amount in excess of the base fee may be refunded, provided a written request with the original permit attached is submitted to the building official within ninety (90) days of the permit's date of issuance. Such written request should state the reasons the refund is requested. The Building Official may, in the Building Official's sole discretion and upon good cause, authorize a refund of any permit fee in excess of the base fee.

Residential Flat Fee Permits – the following permit types will be charged a flat permit fee for all residential projects:

Flat Fee Permit Schedule	Residential
Concrete Slab	$75
Construction Trailer	$75
Demolition	$75
Driveway	$75
Exterior Siding	$75
Fences/Masonry Wall/Retaining Wall	$75
Hurricane Shutters (non-electric)	$75
HVAC (replacement only - ONE AHU and/or ONE Condenser unit) – Over 1 unit charged based on value*	$75
Land Clearing	$75
Shed	$75
Signs (non-illuminated/temporary)	$75
Swimming Pool (above ground)	$75
Swimming Pool Repair	$75
Tent (temporary)	$75

All other Residential Permit Fees will be charged Based on Valuation (BOV).

*HVAC replacement only for ONE AHU and/or ONE Condenser Unit. Any permit with two or more AHU's or Condensers will be charged based on valuation.

Commercial Flat Fee Permits – the following permit type will be charged a flat permit fee:

Flat Fee Permit Schedule	Residential
Construction Trailer	$100

All other Commercial Permit Fees will be charged Based on Valuation (BOV).

Legislation Details (With Text)

File #:	22-500	**Version:**	1	**Name:**	
Type:	Resolution			**Status:**	City Business
File created:	8/15/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Approve Resolution 2022-086 revising the building fire plan review & inspection fee schedule related to the issuance of building permits & fire inspections pursuant to the Florida Fire Prevention Code & repealing Resolution 2019-019 in its entirety. (Fire Chief)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Resolution 2022-086: Adopting Fire Fees - Final.pdf Exhibit A Fire Inspection and Plans Review Fees - Final.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 15, 2022
Agenda Date: August 23, 2022
Prepared By: Samuel Schaller, Fire Inspector
Through: Jonathan Lamm, Fire Chief
Requested Action:
Approve Resolution 2022-086 revising the building fire plan review & inspection fee schedule related to the issuance of building permits & fire inspections pursuant to the Florida Fire Prevention Code & repealing Resolution 2019-019 in its entirety.

BACKGROUND:

Under Florida Statute 633, Admin Code 69A & the statewide adopted Florida Fire Prevention Code local municipalities & fire departments are responsible for administering and enforcing the Florida Fire Prevention Code. Toward that end, 633.216 (1), *Florida Statues,* enables local governments to provide a schedule of fees for the purposes of carrying out its statutory responsibility to enforce the Florida Fire Prevention Code & pay for the costs of inspections & related administrative expenses. Additionally, Florida Fire Prevention Code, NFPA 1, Ch. 1.17 establishes the authority for the AHJ to establish a fee schedule for permitting & plan review.

City Code Section 6-208 allows the City Council, pursuant to general law, may determine, establish and adopt by resolution any fees necessary for the administration and enforcement of the Cocoa Fire Protection and Prevention Code. The fee schedule shall be based on direct costs and reasonable indirect costs associated with review of building plans, fire protection system (fire alarms, fire sprinklers), fire inspections, permit processing; code enforcement; and re-inspections associated with new construction. The fees also include training costs associated with the enforcement of the Florida

Fire Prevention Code.

Since 2017, the Fire Department has assumed the responsibility for conducting periodic fire inspections of all existing buildings within the city limits & ensuring they remain in compliance with the Florida Fire Prevention Code. At the March 13th, 2019 City Council meeting, Council approved Resolution 2019-019, which established a fire inspection fee schedule. Since October 2020, the Fire Department has assumed the fire plan review function & has been reviewing all building permits for compliance with the Florida Fire Prevention Code and all permits for fire protection systems, such as automatic fire alarms, sprinklers, & special extinguishing systems in accordance with the adopted NFPA standard. This function was previously conducted by the Building Division & permitting/review fees charged through the building division. It has been identified that there is a need to charge for fire plan review, permitting, & periodic inspections conducted on existing buildings.

In order to start determining the new fee schedule, Staff reviewed the types of & amounts of fees charged by other municipalities and Brevard County. A new schedule of fees for fire plan review & permitting was also developed which is consistent with the fees charged by the other municipalities and Brevard County. The fees range from $25-$235 for existing businesses & will only be incurred once every other year by the majority of businesses in the city limits. Fire plan review will be done concurrently with Building Division plan review and is an initial charge of $50 with a charge of $35 per $1,000 of construction value. Each inspection conducted for specialty fire protection systems will also have a one-time fee applied to it due to the amount of time & technical expertise required to conduct such inspections.

Summary of changes are listed below:

- Going from no established fire permitting fees to a fee of $50 + $35 per $1,000 of construction value for permits requiring fire review.
- No established site plan review fee to a flat rate of $150 for fire site plan review due to the amount of technical review required.
- Established a schedule of fees for each fire specific system inspection (automatic fire alarm, sprinkler, standpipe, BDA, etc.) due to the amount of time & technical knowledge these require.
- Established a fee schedule for periodical inspections conducted on existing commercial & multi-family residential buildings.
- Revised the fee schedule for re-inspections of existing buildings due to repeat/outstanding violations, based on a tiered scale of square footage in brackets of 1499 sq. ft. each, thus lower the average cost for each re-inspection.

Please see exhibit A for a full breakdown of the fee schedule.

Staff is requesting approval of Resolution 2022-___ revising the City of Cocoa Fire Prevention fee schedule in accordance with Sec 6-208 of City Code.

STRATEGIC PLAN CONNECTION:

Public Safety - Reducing and eliminating the City's exposure to hazard impacts through effective planning, targeted funding, and hazard mitigation helps to reduce the loss of life, human suffering,

and property damage.

BUDGETARY IMPACT:

With the implementation of the new fee schedule, the impact of the costs related to fire plan review, fire inspections & the enforcement of the Florida Fire Prevention Code shall be able to be partially indemnified

PREVIOUS ACTION:

Council approved Resolution 2019-019, adopting a modified schedule of fire prevention fees in accordance with Section 6-208 of the City Code.

RECOMMENDED MOTION:

Approve Resolution 2022-086 revising the revised Fire Prevention Fee Schedule & repealing Resolution 2019-019 in its entirety.

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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

Legislation Details (With Text)

File #:	22-505	**Version:**	1	**Name:**	
Type:	Contract			**Status:**	City Business
File created:	8/17/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Staff is seeking approval to reject all bids and rebid ITB B-22-15-COC Fiske Blvd. Roadway and Broadmoor Acres Drainage Improvements Project, FEMA Project Number 4337-428-R. (Public Works Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:					

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 17, 2022
Agenda Date: August 23, 2022
Prepared By: Bryant Smith III, P.E., CFM - Public Works Director / City Engineer
Through: Stockton Whitten - City Manager
Requested Action:
Staff is seeking approval to reject all bids and rebid ITB B-22-15-COC Fiske Blvd. Roadway and Broadmoor Acres Drainage Improvements Project, FEMA Project Number 4337-428-R.

BACKGROUND:

The City of Cocoa broadcasted Invitation to Bid (ITB) B-22-15-COC Fiske Blvd. Roadway and Broadmoor Acres Drainage Improvements Project, FEMA Project Number 4337-428-R on June 16, 2022. This project was open to bidding for 50 days (20 days longer than required for a project of this magnitude), with a bid due date of August 4, 2022. The City received two responses to the ITB, with one of those being a notice of no bid. This project is a federally funded project through the Federal Emergency Management Agency's (FEMA) Hazard Mitigation Grant Program. FEMA has recommended that the City reject all bids and repost the project in an effort to receive more bids.

As part of F.S. 119.071(1)(b)1.-3, If an agency rejects all bids, proposals, or replies submitted in response to a competitive solicitation and the agency concurrently provides notice of its intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision concerning the reissued competitive solicitation or until the agency withdraws the reissued competitive solicitation. A bid, proposal, or reply is not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

None at this time.

PREVIOUS ACTION:

May 25, 2021, City Council authorized the City Manager to execute the Grant Agreement with FEMA.

RECOMMENDED MOTION:

Staff is seeking approval to reject all bids and rebid ITB B-22-15-COC Fiske Blvd. Roadway and Broadmoor Acres Drainage Improvements Project, FEMA Project Number 4337-428-R.

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Legislation Details (With Text)

File #:	22-456	**Version:**	1	**Name:**	July, 2022 Monthly Purchasing Approval Information
Type:	Informational Item			**Status:**	Agenda Ready
File created:	8/1/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Council request to review the cumulative purchase approvals over $35,000 and under $50,000 for period 10/01/2021 to 7/31/2022. (Finance Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	PO Monthly Report to City Council 10.01.21 thru 7.31.22.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date:	August 1, 2022
Agenda Date:	August 23, 2022
Prepared By:	Christine Savage, Junior Buyer & Contract Specialist
Through:	Rebecca Bowman, MBA, CGFO, CGFM, Finance Director

Requested Action:
Council request to review the cumulative purchase approvals over $35,000 and under $50,000 for period 10/01/2021 to 7/31/2022**.**

BACKGROUND:

The following reports for the period October 01, 2021 through July 31, 2022 provide a summary of all the purchases $35,000 and over up to $50,000.

1. Purchases approved by the City Manager or designee.

2. Purchases approved by the CRA Board.

3. Purchases approved by the City Council.

These reports are date/time driven and any differences between the summary and detailed information is a timing issue.

RECOMMENDED MOTION:

None. Information only.

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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.

Legislation Details (With Text)

File #:	22-458	**Version:**	1	**Name:**	
Type:	Informational Item			**Status:**	Agenda Ready
File created:	8/2/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Calls for service provided by the Cocoa Fire Rescue Department for the month of July 2022. (Fire Chief)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	July 2022 Calls For Service By Incident Type.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 2, 2022
Agenda Date: August 23, 2022
Prepared By: Samuel Byrd, Deputy Fire Chief
Through: Jonathan Lamm, Fire Chief
Requested Action:
Informational Item Only

BACKGROUND:

Fire Incident Summary Report for July 2022.

STRATEGIC PLAN CONNECTION:

Public Safety- Enhancing the public awareness to the calls for service provided by the Cocoa Fire Rescue Department for the month of July.

BUDGETARY IMPACT:

None

PREVIOUS ACTION:

None

RECOMMENDED MOTION:

Information Only

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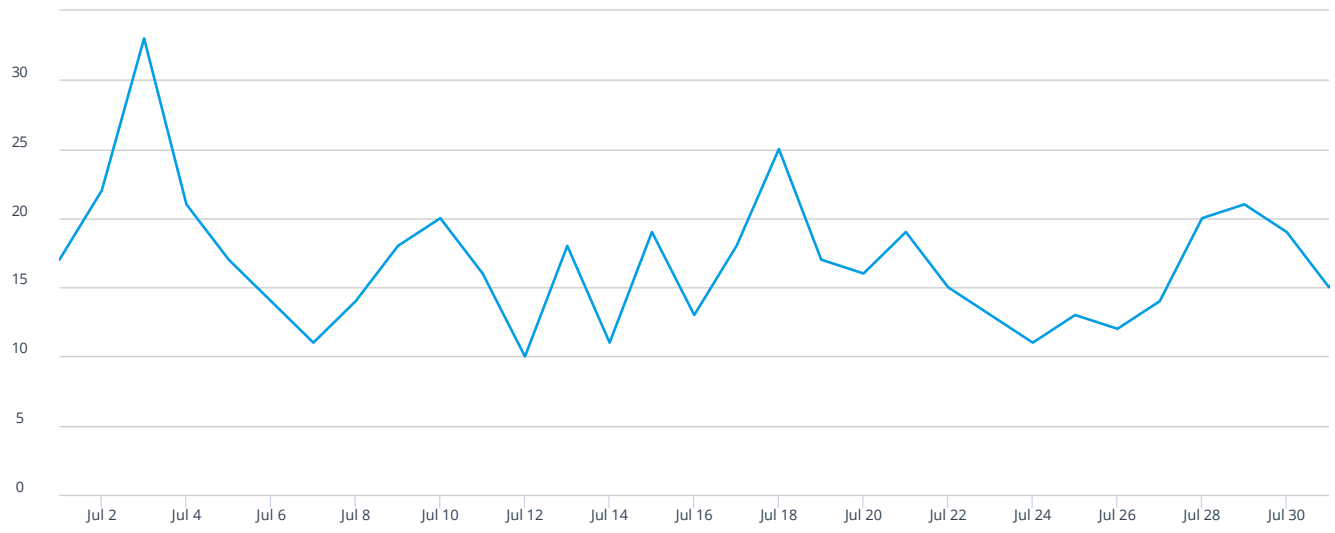
Custom Jul 1, 2022 - Jul 31, 2022

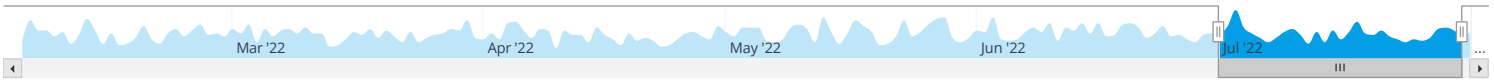
33%
FIRE
Percentage of Total Incidents

66%
EMS
Percentage of Total Incidents

522
INCIDENTS
In Selected Time Slice

31
DAYS
In Selected Time Slice





Counts | % Rows | % Columns | % All

Week Ending	7/3/22	7/10/22	7/17/22	7/24/22	7/31/22	8/7/22	8/14/22	8/21/22	8/28/22	9/4/22	9/11/22	9/18/22	9/25/22	Total
(10) Fire, other					1									1
(11) Structure Fire			1	1	1									3
(13) Mobile property (vehicle) fire	1													1
(15) Outside rubbish fire		2	1											3
(30) Rescue, emergency medical call (EMS), other	3	3	3	3	8									20
(31) Medical assist	1	1	2	2	3									9
(32) Emergency medical service (EMS) incident	44	74	64	72	64									318
(35) Extrication, rescue				2										2
(41) Combustible/f.. spills & leaks	2		1	1	4									8
(44) Electrical wiring/equipm. problem	1			1										2
(50) Service call, other					3									3
(51) Person in distress		1												1
(52) Water problem			1											1
(53) Smoke, odor problem				1										1
(54) Animal problem or rescue			1											1

Week Ending	7/3/22	7/10/22	7/17/22	7/24/22	7/31/22	8/7/22	8/14/22	8/21/22	8/28/22	9/4/22	9/11/22	9/18/22	9/25/22	Total
(55) Public service assistance	6	7	6	10	11									40
(56) Unauthorized burning					1									1
(60) Good intent call, other			1											1
(61) Dispatched and canceled en route	9	22	12	18	10									71
(62) Wrong location, no emergency found	1	3	3		3									10
(65) Steam, other gas mistaken for smoke			4	1										5
(70) False alarm and false call, other	2		1	2	1									6
(72) Bomb scare			1											1
(73) System or detector malfunction	1	2	1	1	2									7
(74) Unintentional system/detect... operation (no fire)	1		2	1	1									5
NULL					1									1
Total	72	115	105	116	114									522

Legislation Details (With Text)

File #:	22-478	**Version:**	1	**Name:**	
Type:	Informational Item			**Status:**	Agenda Ready
File created:	8/9/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Review of City of Cocoa and LIUNA Memorandum of Understanding regarding health insurance. (Administrative Services Director)				
Sponsors:	Department Director				
Indexes:					
Code sections:					
Attachments:	LIUNA Local 630 Agreement 10_01_2021-09_30_2024.pdf LIUNA MOU Article 15 Health and Welfare (7-27-22).pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 9, 2022
Agenda Date: August 23, 2022
Prepared By: Tammy B. Gemmati, Administrative Services Director
Through: Stockton Whitten, City Manager
Requested Action:
Review of City of Cocoa and LIUNA Memorandum of Understanding regarding health insurance.

BACKGROUND:

The City of Cocoa and the Laborers' International Union of North America (LIUNA) Local 630 have an existing collective bargaining agreement in effect for October 1, 2021 - September 30, 2024. In accordance with Article 5.2 of the agreement, it allows for modification of an article with mutual consent by a letter of agreement.

The City and LIUNA entered into a Memorandum of Understanding (MOU) on July 27, 2022 between LIUNA Business Manager Ronnie Burris and City Manager Stockton Whitten to document the mutual agreement to share the health insurance increase of 9.2% for dependent coverage for Fiscal Year 2023. City Council approved this at regular City Council Meeting on July 12, 2022. Additionally, this topic was discussed at multiple budget workshop meetings with City Council. This MOU is being done to document the mutual agreement to do so under the CBA. A copy of the executed MOU is attached, which outlines the modifications to the collective bargaining agreement.

STRATEGIC PLAN CONNECTION:

Employees- By entering into this MOU with LIUNA it increases employee morale and builds

employee retention.

BUDGETARY IMPACT:

Budgeted Yes

Benefits in respective FY2023 General, Stormwater, and Water Accounts.

PREVIOUS ACTION:

At the Regular City Council Meeting on September 14, 2021, City Council approved the three-year contract between the City of Cocoa and Laborers' International Union of North America (LIUNA) Local 630 in effect for October 1, 2021 - September 30, 2024.

RECOMMENDED MOTION:

N/A

AGREEMENT

between

THE CITY OF COCOA, FLORIDA

(The City)

and

LOCAL 630

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA

AFL-CIO

(The Union)

EFFECTIVE

October 1, 2021

through

September 30, 2024

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PREAMBLE

This Agreement is entered into as of October 1, 2021, between the City of Cocoa, hereinafter referred to as the City, and Laborers' International Union of North America (AFL-CIO) (LIUNA) Local 630, hereinafter referred to as the Union. It is the intent and purpose of this Agreement to assure sound and mutually beneficial working and economic relationships between the parties, to provide an orderly and peaceful means of resolving any differences or misunderstandings which may arise, and to set forth basic and full agreement between the parties concerning rates of pay, wages, hours of employment and other terms and conditions of employment. There shall be no individual arrangement contrary to the terms provided. Either party shall be entitled to require specific performance of the provisions of this Agreement. It is understood that the City of Cocoa is engaged in furnishing essential public services which vitally affect the health, safety, comfort, and general wellbeing of the public and both parties recognize the need of continuous and reliable service to the public.

ARTICLE 1 UNION RECOGNITION

1.1 The City recognizes the Union as the exclusive collective bargaining representative for those employees that the Union is authorized to represent (see Appendix B for those positions included in the bargaining unit) for the purpose of collective bargaining with respect to rates of pay, wages, hours of employment and other conditions of employment.

1.2 It is further understood and agreed that the International Representative or Business Manager of Laborers' International Union of North America Local 630, or an alternate, will be the official spokesperson for the Union in any matter between the Union and the City. Any alternate designated by the Business Manager shall be designated in writing and the period of time covered by such designation shall be included in such written designation.

ARTICLE 2 UNION SECURITY AND CHECK-OFF

2.1 The City will make available to all employees in the bargaining unit a copy of this Agreement.

2.2 Upon receipt of a written authorization from an employee covered by this Agreement, the City will deduct from the employee's pay the amount owed to the Union by such employee for dues. It is understood that this provision will provide for regular deductions per pay period. The City will remit to the Union dues deductions of members within thirty (30) days of each payday. The City's remittance will be deemed correct unless the Union gives written notice to the City within thirty (30) days after a remittance is received, of its belief, with reasons stated therefore, that the remittance is incorrect. All Union dues shall be collected by the City by payroll deduction and paid to the Union in the above manner. Written notice of changes in the Union membership dues rate will be sent by certified mail to the City signed by the authorized officer(s) of the Union,

at least thirty (30) days in advance of the effective date of such change.

2.3 No deduction shall be made from the pay of any employee for any payroll period in which the employee's net earnings for that payroll period, after other deductions, are less than the amount of dues to be checked off.

2.4 Any employee may withdraw membership in the Union upon sixty (60) days written notice to the Union and the Human Resources Division.

2.5 The Union will indemnify, defend, and hold the City harmless against any claims made and against any suit instituted against the City regarding any check-off of Union dues.

2.6 The City shall provide the Union, upon request, a complete roster of the bargaining unit including name, address, telephone number, classification, and current pay rate. The City shall furnish the Chief Steward and Business Agent a copy of the City Personnel Policies, including any and all changes thirty (30) days prior to their implementation if the changes therein affect bargaining unit employees.

ARTICLE 3 MANAGEMENT SECURITY/NO STRIKE

3.1 Neither the Union nor any of its officers, agents, or any employees covered by this Agreement will instigate, promote, sponsor, engage in or condone any strike or intentional interruption of the operations of the City during the term of this Agreement. Management shall have the right to discharge or otherwise discipline for just cause, any or all employees who violate the provisions of this paragraph.

ARTICLE 4 MANAGEMENT RIGHTS/EMPLOYEE RIGHTS

4.1 Except as specifically abridged, delegated or modified by the provisions of this Agreement,

the City has the sole and exclusive right to manage and direct any and all of its operations. Accordingly, the City specifically, but not by way of limitation, reserves the sole and exclusive right to:

A. Determine the purpose and organizational structure of each of its constituent agencies.

B. Exercise control and discretion over the organization and efficiency of its operations.

C. Set minimum performance standards for service to be offered to the public.

D. Change, modify or alter the composition and size of the workforce, including the right to lay off and/or relieve employees from duties because of lack of work, funds, or other legitimate reasons.

E. Determine the location, methods, means and personnel by which operations are to be conducted.

F. Transfer, assign, schedule employees in positions within the organizational structure of the City.

G. Change or modify the number, types, and grades of positions or employees assigned to an organization, unit, division, department, or project.

H. Decide the scope of the service.

I. Hire, examine, classify and/or otherwise determine the criteria and standards of selection for employment.

J. Fire, demote, suspend or otherwise discipline employees for just cause.

K. Test employees pursuant to the provisions contained in this Agreement.

L. Promote and/or otherwise establish criteria and/or procedures for promotions.

M. Recall employees.

N. Determine the starting and quitting time and the number of hours and shifts to be worked, including emergency call-ins for hurricanes, storms, etc.

O. Determine the allocation and content of job classifications; and formulate and/or amend job descriptions, with a copy to be provided to the Union prior to implementation.

P. Determine training parameters for covered positions, including persons to be trained, extent and frequency of training, with reasonable accommodation to provide equitable distribution of training opportunities.

Q. Merge, consolidate, expand, curtail, transfer, contract and/or subcontract work for legitimate reasons or discontinue operations, temporarily or permanently, in whole or in part.

R. Create, expand, reduce, alter, combine, assign, or cease any job.

S. Determine whether and to what extent the work required in its operation shall be performed by employees covered by this Agreement.

T. Control the use of equipment and property of the City and determine the number and classifications of employees assigned to any shift or work location.

U. Determine the maintenance procedures, materials, facilities, and equipment to be used, and introduce new or improved services, maintenance procedures, materials, facilities and equipment.

V. Carry out the mission and responsibility of the City in unusual and/or emergency situations.

W. Exercise those rights and powers which are incidental to the rights and powers enumerated above.

The above rights of the City are not all-inclusive but indicate the type of matters or rights which belong to and are inherent in the City. Any of the rights, powers, and authority that the City had

prior to entering into this collective bargaining agreement are retained by the City.

4.2 Employee Rights. The exercise of the above rights does not preclude employees or their representatives from conferring or raising grievances about the practical consequences that decisions on these matters may have on terms and/or conditions of employment.

A An employee covered by this Agreement shall have the right to join or refuse to join in Union activity without interference, coercion, intimidation by management or any other employee of the City, or by the Union.

B All employees have the right to union representation in meetings with management when questioning relates to an investigation, when there is reasonable expectation that disciplinary action may result, and during grievance hearings.

C All employees have the right to be notified by the City of any hazardous waste, toxic chemicals, or substances in his/her employment which may endanger or cause death to the employee or members of his/her immediate family.

D All employees have the right to a fair hearing and resolution of grievances without fear of discharge, threat or reprisal, or discrimination because the employee has filed an appeal, grievance charges, or given testimony against the City or another employee, regardless of status.

E All employees have the right to file valid claims for compensation or to attempt to claim compensation under the Workers' Compensation Act without fear or threat, intimidation or coercion by reason of such claim.

ARTICLE 5 SPECIAL MEETINGS

5.1 The City and the Union agree to meet and confer on matters of interest upon written and/or email request of either party. The written request shall state the nature of the matters to be discussed and the reason(s) for requesting the meeting. Discussion shall be limited to matters set forth in the request or other subjects mutually agreed to, but it is understood that these special meetings shall not be used to renegotiate this Agreement. Such special meetings shall be held within ten (10) calendar days of the receipt of the written and/or email request and at a time and place mutually agreeable to both parties. The Union shall have the right, at these special meetings, to recommend to the City corrections to any inequities known to the Union. Informal meetings may be held at any time upon verbal agreement of the Union and the City.

5.2 In the event either party desires to modify a certain article contained in this Agreement, by mutual consent, a letter of agreement may be drafted and signed by the parties to supersede said article or provision.

5.3 Union Stewards may meet for two (2) hours a month at a predetermined time and place during working hours to discuss City issues to determine if a special meeting with the City is needed. The purpose of the stewards meeting is to help improve communications in the City.

5.4 The Administrative Services Director or his/her designee and the LIUNA Business Agent or his/her designee agree to convene discretionary quarterly for a "Labor Management Meeting" to confer on matters of interest to each party. These meetings shall be held at a time and place mutually agreeable to the parties and shall be comprised of the LIUNA Business Manager and the Chief Steward, or his/her designee from the Union unless the parties mutually agree to a different number.

5.5 The parties must agree that neither Special Meetings nor the Quarterly Labor -Management Meetings shall be used to renegotiate the terms of this Agreement or to discuss matters addressed in the grievance process.

ARTICLE 6 UNION STEWARDS AND UNION REPRESENTATION

6.1 The City recognizes and shall deal with all accredited Union Stewards and any other officer listed in Article 1.2 of this Agreement in all matters relating to grievances and interpretation of this Agreement.

6.2 The employees covered by this Agreement shall be represented by Six (6) area stewards who represent their respective work areas, five (5) alternate stewards to act as a steward only if the normal steward is unavailable and one (1) Chief/Roving Steward.

The Chief Steward mentioned above is assigned by the Business Manager. A written list of the Union Stewards shall be furnished to the City prior to the effective date of their assuming duties of office. The Union shall notify the City of any changes of such Union Stewards. No Union Steward will be granted time off from his or her job for the purpose of grievance handling unless such notification has been received.

The City recognizes the Union's designated Chief Steward's responsibilities to the members. In addition, the Chief Steward, or designee, may serve as an alternate for any area Steward due to vacation, leave of absence, extended sick leave, or if the Steward is absent or otherwise not available.

6.3 Officials of the Union designated by Article 1.2 of this Agreement may, with proper notification, be admitted to the property of the City. An Official of the Union as designated in Article 1.2 shall be able to talk with the employees before or after regular working hours or during

lunch hours on City property in accessible areas. With proper authorization, which will not be unduly withheld, the Union representative will be admitted during working hours.

ARTICLE 7 UNION BUSINESS

7.1 This Article outlines the duties and responsibilities of Union Stewards in performing their functions as recognized Union representatives. In those cases which cannot be resolved otherwise, Union Stewards shall be granted reasonable time off during working hours, without loss of pay, to investigate and settle grievances on the job site which is within their jurisdiction, upon notifying and securing verbal permission from a member of management of the Union Stewards and the grievant. If a steward fails to obtain permission to leave and/or enter the job site as outlined in this section, he/she will be subject to disciplinary action. Such permission shall be granted without unnecessary delay unless the Union Steward or grievant is performing duties requiring his or her immediate attention, as determined by the superintendent or designee. At no time will a Union Steward be paid overtime for performing Union business. If permission cannot be immediately granted, the City will arrange to allow investigation of the grievance at the earliest possible time.

7.2 Stewards are responsible for grievance handling within their designated areas of representation. If it is necessary for a Steward from another area of representation to represent an employee in a grievance, such substitution will be in lieu of the area Steward. In no case will more than one (1) Steward participate in/represent a grievance unless mutually agreed to in advance by the City and the Union.

7.3 Members of the Union negotiating team will be allowed time off with pay for negotiation meetings which occur during the employees regular work hours, work shift, or work day. No

regular or overtime (premium) pay will be authorized for time spent in negotiations beyond the Steward's normal work day. Alternate stewards shall not participate in Negotiations.

7.4 Union Stewards shall be members of the bargaining unit who have satisfactorily completed their probationary period.

7.5 It is agreed that all Union Stewards have productive work to perform as assigned by the City. The parties agree that each will cooperate with the other in reducing to a minimum the actual time spent by the Union Stewards in investigating, presenting, and adjusting grievances or disputes. Solicitation of any and all kinds by the Union, including the solicitation of grievances and membership, shall not be engaged in during working hours. No general Union Membership meetings shall be held on the City's time.

7.6 Union Stewards are subject to all City rules regarding the conduct of the employees of the City.

7.7 While on leave of absence for disciplinary reasons, no employee shall function as a Union Steward.

7.8 When it is necessary for a Union Steward to enter an area other than the Union Steward's own representative area for the purpose of conducting Union business authorized by this Agreement, the Union Steward shall notify a member of management of that area of the Union Steward's presence and the nature of the Union Steward's business. Such circumstances should only occur if the department's Union Steward or alternate Union Steward are unavailable or absent.

7.9 In order to minimize loss of productivity, Stewards are expected to avoid any unreasonable or unnecessary time away from their work for the purpose of representation/settlement of grievances. Any allegations by the City which indicate that a Union Steward or Union Representative is spending an unreasonable amount of time in handling grievances or disputes or

performing other duties for the Union shall be referred to the Human Resources Division for discussion with the Union's Business Manager or designee. The Human Resources Division shall have the right to require the Union to refrain from such excessive time spent performing the activities specified in this section.

7.10 The City, whenever possible, when business requirements are not impacted and there is not a financial impact to the City, may grant approval for union business leave for any Union Steward of the Union to attend union functions or sponsored training. This union business leave shall not exceed 100 hours per fiscal year. Such union business leave needs to be requested and coordinated with the Chief Steward and/or Business Manager, and approved by the member's manager in advance, similar to vacation leave.

ARTICLE 8 GRIEVANCE PROCEDURE

8.1 A grievance, within the meaning of this Agreement, shall be defined as a dispute regarding the interpretation and/or application of a specific clause of this Agreement arising during the period of time expressly covered by this Agreement.

Members of the bargaining unit will follow all written and verbal directions given by supervision. Compliance with such directions will not prejudice the right to file a grievance within the time limits contained herein, nor shall compliance affect the ultimate resolution of the grievance. Newly hired probationary employees do not have recourse through the grievance and arbitration procedure for disciplinary or termination actions.

No grievance will or need be entertained or processed, unless prepared in writing in the manner described herein and unless filed in the manner provided herein within the time limit prescribed herein. With exception to the class action grievance process, employees shall meet

informally with their supervisor to attempt to resolve the issue and may request union representation prior to filing a written grievance.

All grievances must be delivered to the appropriate party as described herein on the approved Grievance Form and contain all appropriate, original signatures with acknowledgement of receipt.

8.2 Rules of Grievance Procedure:

A. At any step of the grievance procedure, nothing shall be construed to prevent any bargaining unit employee from presenting, at any time, his/her own grievances and having such grievances adjusted without the intervention of the bargaining agent, if the adjustment is not inconsistent with the terms of the collective bargaining Agreement then in effect.

Should the employee proceed on his own, all costs ordinarily attributable to the Union shall be the responsibility of the employee.

If an employee covered by this Agreement files a grievance without Union representation, the Union shall have the right to be notified of such grievance, hearing dates and to have its Steward or Representative present during the hearing. In such cases, the Union shall be furnished with a copy of the written grievance and the City's response to the grievant at each step of the grievance procedure.

B. A written grievance with original signatures shall be dated and signed by the aggrieved employee and the Union representative presenting it. All grievances advancing beyond Step 1 must be delivered to the Human Resources Division on the approved Grievance Form (see Appendix A) and contain all appropriate, original signatures. A written decision to the employee shall also be forwarded to the Union representative and shall be dated and signed by the appropriate City representative.

C. When a written grievance is presented, the City shall acknowledge receipt by signing and dating same.

D. A grievance not advanced to the higher step within the time limit provided shall be deemed permanently withdrawn as having been settled on the basis of the decision most recently given. Failure on the part of the City's representative to answer within the time limits set forth in any step will entitle the grievant to proceed to the next step. If the grievant is satisfied with the City's response at any step, the grievance will not be processed further by the grievant.

E. All written grievances must include:

1. A complete statement of the grievance and facts upon which it is based.
2. The remedy or correction requested.
3. The specific section or sections of this Agreement and/or Personnel Policies claimed to have been violated.
4. Original signature of grievant and date submitted.

F. The City is not required to process any grievance which does not include all required information.

G. At any step of the grievance procedure, the grievant may request that a Union Steward be present and a designee may be appointed to act on behalf of the City official responsible at that step.

H. All grievances must be processed within the time limits provided unless extended by mutual agreement in writing. If the time limits are not extended and the bargaining unit employee or the union does not initiate the grievance or appeal a decision of management within the time limits specified, the grievance shall be considered dismissed.

8.3 PROCEDURE

INFORMAL STEP: The Union and the affected employee(s) shall discuss verbally with the Superintendent/Division Manager or designee within ten (10) calendar days from the date the aggrieved employee and/or union has knowledge of the incident or the occurrence that gave rise to the grievance. Discussions will be informal for the purpose of settling differences in the simplest and most direct manner. The Management shall respond in writing to the member or the members of the bargaining unit within ten (10) calendar days from the end of the shift that the incident or occurrence was discussed. At that time, if the employee(s) believes the incident has not been resolved, he/she shall advance the grievance to Step 1 of the Grievance Procedure.

STEP 1: If the grievance is not resolved informally, and as outlined in the Informal Step, the grievance will be submitted, in writing on the Grievance Form by the grievant(s), to the Department Director or designee within ten (10) calendar days. The grievance shall indicate that it was discussed with the Superintendent/Division Manager or designee. The grievance shall include all written responses. The Department Director or designee shall investigate the grievance and shall have a meeting with the employee, the Union representative, other employees, members of the public, witnesses, and/or supervision, etc., as deemed necessary. The Department Director or designee shall notify the employee and the Union representative of the decision, both orally and in writing, within ten (10) calendar days following the meeting or completion of the investigation, whichever is later.

STEP 2: If the grievance is not settled at the second step, the Union representative and/or grievant may present the original written grievance, with all prior responses attached thereto, to the Human Resources Division for review by the City Manager within ten (10) calendar days of issuance of the decision of the Department Director or designee in Step 1. The City Manager, or designee, shall meet with the employee, the Union representative,

supervision/management, and other parties as deemed necessary, to discuss the grievance within ten (10) calendar days of receipt of the grievance. The City Manager, or designee, shall issue a written decision to the employee and the Union representative within twenty (20) calendar days after the hearing.

Termination of any employee covered by this Agreement shall permit the terminated employee or Union representative, if the Union representative is serving at the employee's request, to initiate and appeal the termination, at the second step as provided in this Section; i.e., to the City Manager or designee within ten (10) calendar days of receipt of the notice of termination.

STEP 3: If the grievance is not satisfactorily settled in Step 2, the Union must notify the City Manager of the intent to arbitrate and their submittal to the Union's E-Board for arbitration approval by the grievant providing written notice to the City Manager within ten (10) working days of receipt of the decision of the City Manager or designee. The final decision to arbitrate shall be provided to the City Manager within forty-five (45) calendar days of the City Manager's Step 2 response. Within ten (10) calendar days of the Union's notification, the Union shall request a panel from the Federal Mediation and Conciliation Service (FMCS). Within fourteen (14) calendar days of receipt of the panel, the parties shall select an arbitrator by alternate striking of names, with the grievant striking first. The parties shall also have the option of agreeing upon the name of an arbitrator in lieu of selecting an arbitrator from the names on the panel. Each party has the right to request one (1) new panel of arbitrators prior to striking. Hearings before the arbitrator shall be conducted in accordance with the rules of the Federal Mediation and Conciliation Service. The arbitrator's decision shall be final and binding, but the arbitrator shall have no power to alter, modify, amend, add to, and/or detract from the terms of this Agreement.

1. Awards or settlements of grievances by the impartial arbitrator will not be retroactive unless specifically determined to be retroactive by the arbitrator.

2. The settlement of a grievance by the City Manager at any step, and the terms contained herein, shall not have any prospective binding effect on the City unless specifically agreed to by the parties in writing. A decision granting a grievance in whole or in part at Steps 1 or 2 will be considered rejected and will not be implemented if the grievance is advanced to the next step.

3. The arbitrator shall have no authority to change, amend, add to, subtract from, or otherwise alter or supplement this Agreement or any part thereof or any amendment thereto, nor shall the award directly or indirectly change, modify, or ignore any of the terms of this Agreement.

The arbitrator shall have no authority to consider or rule upon any matter which is stated in this Agreement not to be subject to arbitration, which is not a grievance as defined in this Article, or which is not specifically covered by this Agreement. The arbitrator shall confine himself or herself exclusively to the contract issue which is presented to the arbitrator.

The arbitrator must limit consideration to the facts, allegations, and relief requested in the written grievance submitted at Step 1 and may not consider any issue or relief not requested in the written grievance, or which does not meet the definition of a grievance as set forth herein.

4. The party filing the grievance and requesting arbitration shall, at all times, have the burden of proving that any action taken by the non-grieving party violated a specific provision of this Agreement. The arbitrator's decision will be final and

binding; provided, however, that either party shall be entitled to seek review of the arbitrator's decision in Circuit Court. The parties agree that the standard of review of the arbitrator's decision shall be whether the record evidence established that the grieving party met its burden of proving that the action taken by the non-grieving party violated a specific provision of this Agreement.

5. All claims for back wages shall be reduced by any unemployment compensation and interim earnings that the grievant may have received during the period involved.

6. The provisions herein shall control the proceedings of any grievance or arbitration pending on the effective date of the Agreement.

7. Each party shall bear the expense of its own witnesses and its own legal representatives. The fees and expenses of the arbitrator shall be borne equally by the parties. Any party requesting a copy of the transcription of the arbitration hearing shall bear the cost of same.

8. Copies of the award of the arbitrator made in accordance with the jurisdiction authority under this Agreement shall be furnished to both parties within thirty (30) days of the hearing.

8.4 Grievances filed by the Union:

A. Only the Union's Business Manager and/or Chief Steward may file a grievance in the name of the Union, or as a class action.

B. A grievance filed by the Union may be initiated at Step 2. If the grievance is not satisfactorily resolved between the Business Manager and/or the Chief Steward and the City

Manager, or designee, the grievance may be submitted for arbitration under the provisions of Step 3 above.

ARTICLE 9 DISCIPLINE AND DISCHARGE

9.1 Management shall have the right to discipline, demote, or terminate a bargaining unit member for just cause. The employee will be furnished with a written statement of charges of the alleged offense(s). Such statement of charges shall cite the specific section(s) of this Agreement and/or City Personnel Policies claimed to be violated. The employee shall have reasonable time to prepare for a defense against the charges and shall be afforded due process. Discipline shall normally be administered within twenty (20) working days of the alleged offense(s), or knowledge thereof, unless the employee is notified in writing that disciplinary action may be taken, pending completion of an investigation regarding the allegations.

9.2 In cases requiring an investigation, disciplinary action will not be taken until the conclusion of the investigation. An employee may be placed on administrative leave, with or without pay, during an investigation, if it is determined to be in the best interest of the City. In no case will an administrative leave with pay exceed eighty (80) hours. With the exception of criminal investigations, the normal investigation should not take more than two (2) weeks for completion. An extension may be requested in writing, as needed. In the event it is decided by the City Manager or designee for the administrative leave to be without pay, at the Union's request, the City Manager or designee will provide written explanation as to how this determination was made.

The City reserves the right to immediately suspend an employee without pay, without notice, when it is determined by the City that the employee's continued presence constitutes a

threat or hazard. However, the employee must be notified within three (3) working days of charges.

9.3 In the event the employee receives written notification that termination is recommended, the employee may, within five (5) working days of receipt of the notice, contact Human Resources to request a pre-termination hearing or file a grievance. At no time may an employee request a pre-termination hearing and later file a grievance on the matter. The pre-termination hearing shall be conducted by the City Manager or designee and the Human Resources Manager or designee within ten (10) working days of receipt of the employee's request. At the pre-termination hearing, the employee will be given the opportunity to respond to the allegations. An employee may request the presence of a Union Steward at the hearing, and the Steward may speak on behalf of the employee in response to the allegations. Within ten (10) working days after this hearing, the City Manager shall render a written decision regarding the employee's status.

9.4 Employees shall have the right to review their personnel files upon request. Employees shall have the opportunity to submit a written statement responding to any reprimands which will be or are entered in their personnel file. Employees shall receive a copy of disciplinary documents placed within their personnel file.

9.5 Discipline in an employee's personnel file shall be used in progressive discipline against the employee as follows: verbal warning for one (1) year, written reprimand for two (2) years, and a suspension for three (3) years. Discipline actions involving harassment or workplace violence not resulting in termination can be used in progressive discipline for five (5) years from date of occurrence.

9.6 Normally, progressive disciplinary action (oral reprimand, written reprimand, suspension without pay and termination) will be followed. However, the nature and seriousness of an

employee's offense will be of primary importance and could result in suspension or termination without previous oral or written reprimand.

Oral reprimands are for a minor or infrequent offense in which the employee is counseled concerning the behavior or work performance and advised regarding necessary improvement.

A written reprimand is for an employee who has failed to respond to an oral reprimand or for a more serious offense in which a verbal warning is deemed insufficient for the offense.

A suspension without pay is used as a disciplinary action when a written reprimand has not resulted in a satisfactory change in the employee's conduct or when a written reprimand is deemed insufficient for the offense.

Discharge may be imposed when previous disciplinary actions have failed to bring a satisfactory change in conduct or when lesser action is deemed insufficient for the offense.

ARTICLE 10 VACATIONS

10.1 Employees shall accrue vacation based on their anniversary date in accordance with the following schedule:

Years of Service	Vacation
1-3 (0-36 months)	80 hours
4-10 (37-120 months)	96 hours
11-15 (121-180 months)	120 hours
16-19 (181-240 months)	176 hours
20 and over (241 months and over)	188 hours

10.2 Vacation shall be earned during the first year of employment. Employees completing six (6) months of service are entitled to use their accrued vacation.

10.3 Vacation requests will be considered in the order in which they are submitted to management. Vacation requests must be submitted by the employee in writing and approved in advance by the appropriate member of management. Division seniority shall be considered only when two or more vacation requests are submitted at the same time for the same days off, i.e., pre-approved vacations cannot be revoked by a later vacation request by a more senior employee. The City will make every effort to authorize the vacation request of the employee consistent with the requirements of its operations. No vacation leave shall exceed thirty (30) working days per calendar year unless authorized by the City Manager or unless authorized in conjunction with Family and Medical Leave.

10.4 When accumulated sick leave has been exhausted for an absence under Family and Medical Leave, the employee will use accrued vacation leave, to the extent available, for the remainder of the Family and Medical Leave.

10.5 When a holiday falls within an employee's scheduled vacation period, the holiday shall be paid as holiday pay and will not be charged to the employee's vacation leave.

ARTICLE 11 HOLIDAYS

11.1 The following holidays are authorized for employees covered under this bargaining agreement:

A. New Year's Day (January 1)

B. Martin Luther King, Jr.'s Birthday (3rd Monday in January)

C. President's Birthday (3rd Monday in February)

D. Memorial Day (last Monday in May)

E. Independence Day (July 4)

F. Labor Day (first Monday in September)

G. Veteran's Day

H. Thanksgiving Day

I. The day after Thanksgiving Day

J. Day before or the Day after Christmas Day as established by the City Manager annually

K. Christmas Day (December 25)

11.2 Employees who do not work on a holiday will receive straight time holiday pay for the number of hours equal to their regularly scheduled shift for that day. An employee who performs work on a holiday will receive overtime pay for all hours worked plus straight time based on the regularly scheduled shift for holiday pay (excludes stand-by and call-ins).

11.3 A permanent, full time employee shall receive payment for any paid holiday unless:

A. The employee is on any unpaid leave of absence, no-pay suspension, or is on layoff on the day the City observes the holiday.

B. The employee is scheduled to work the holiday and does not report to work.

C. The employee is scheduled to work on the last regular day preceding the holiday or the next regular work day following the holiday and does not report for work, or does not work the entire shift, unless on approved vacation, or excused by the employee's supervisor for an approved medical absence (sick leave), which may require a physician's statement verifying the employee was seen by the physician on the/or before the date of absence, treatment prescribed and employee was medically unable to work on date of absence.

11.4 When any of the holidays established herein occurs on a Sunday, the following Monday shall be observed as the holiday; when any holiday occurs on a Saturday, the preceding work day

shall be observed as the official holiday.

For those employees covered by this Agreement whose regular work week includes Saturday and/or Sunday, holidays falling on a Saturday or a Sunday shall be observed by such employee on the actual day of occurrence.

ARTICLE 12 SICK LEAVE

12.1 Employees accrue eight (8) hours sick leave per month, provided the employee works a minimum of ten (10) days per month. New employees may not use any accrued sick leave until satisfactory completion of the initial six (6) months of probation, unless the necessity for the absence has been verified by a physician's statement.

12.2 SICK LEAVE MAY BE USED FOR THE FOLLOWING REASONS:

- Legitimate illness of employee.
- Serious health condition of spouse, child(ren), or employee's own parent(s) with a serious health condition, in accordance with the provisions of the Family and Medical Leave Act.
- Routine illness of spouse or children.
- Non-job related accident/injury preventing performance of employee's duties; or to supplement Workers' Compensation wage benefits in the event of a compensable on-the-job injury/accident provided the combined income from Workers' Compensation wage benefits and sick leave does not exceed 100% of regular gross pay.
- Scheduled medical, dental, psychological, psychiatric, optical, chiropractic, or Employee Assistance Program (EAP) appointment, treatment, or examination; or rehabilitation or therapy for alcoholism, drug addiction, or other addictive condition of

employee.

In order to receive sick leave pay for an absence which exceeds three (3) days within a thirty (30) day period, medical certification from a doctor may be required to verify illness. The three (3) days do not have to be consecutive.

12.3 PERSONAL LEAVE USAGE

Employees are allowed to use two (2) work days of accrued sick leave (the number of hours depending upon the employees' normal work schedule), each fiscal year for personal business reasons. Requests for personal leave must be approved in advance by supervision. If an employee does not use the allowed personal leave during the fiscal year, the unused hours are maintained in the sick leave balance. Unused personal leave hours are not carried over into a subsequent fiscal year for additional personal leave use. If an employee records on the weekly time sheet personal leave use in excess of the amount authorized each fiscal year, the excess number of hours will automatically be charged to accrued vacation, if available, or will be "no pay".

12.4 All employees are required to personally notify their supervisor or designee at least one (1) hour prior to their scheduled reporting time on the first day and each succeeding day of absence due to illness. Shift workers are required to report absence due to illness at least two (2) hours prior to the start of the shift. Notification of absence can be made by someone other than the employee only if the employee is incapacitated. Documentation/verification of incapacity may be required by management.

In order to assure that employees are able to timely provide notification of absence as required herein, management will provide appropriate telephone numbers (home, pager, cellular telephones) of management.

12.5 Absences charged to sick leave will be subject to investigation, as deemed appropriate by management. The employee will furnish adequate explanation of his/her illness to supervision to determine if sick leave is to be paid. An employee may be subject to disciplinary action for excessive use of sick leave as determined by the City.

The City may require any employee to undergo a medical examination by an assigned medical doctor at any time to ascertain whether the employee is physically and mentally capable of performing any and all duties required of his classification. This examination will be conducted on City's time and at City's expense.

12.6 Sick leave will be charged only against an employee's regular work day, and shall not be charged for absences occurring on pre-arranged overtime work days, unscheduled call-in overtime days or holidays for which the employee was scheduled to work.

12.7 An employee on temporary, total disability confirmed by competent medical authority because of an occupational disability and who is receiving Worker's Compensation benefits may elect to receive a supplemental sum equal to the difference between the employee's wages and compensation benefits, but such supplemental sum shall be deducted from accrued sick leave and vacation leave credits. When sick leave and vacation leave accruals have been exhausted, the employee if still on temporary disability, will receive only Workers' Compensation benefits. Under no circumstances will an employee receive full pay for sick leave and Workers' compensation wage benefits.

12.8 Sick leave may not be taken during the notice period for resignation, except for legitimate illnesses and/or in increments of less than one day. Any time used in excess of eight (8) hours must be accompanied by a doctor's note.

12.9 The City reserves the right to implement or not implement a sick incentive program based on budgetary restraints.

12.10 PAYMENT OF SICK LEAVE UPON TERMINATION, RETIREMENT, DEATH

The following provisions apply to payment of accumulated sick leave upon termination, retirement or death.

1. Upon termination of employment with the City in good standing [resignation with two (2) weeks' notice, layoff, disability retirement or early retirement] subsequent to completion of at least sixty (60) months consecutive service, employees will be paid 25% of accrued sick leave, up to a maximum payment of 720 hours. Employees who are discharged for cause/misconduct or who terminate for any reason prior to sixty (60) months consecutive employment are not eligible for any payment of sick leave.
2. Upon normal retirement from the City (provided the employee has at least ten (10) years' continuous service) which is simultaneous with termination and as defined by the retirement plan of which the employee is a member, an employee will be paid 66 2/3% of accrued sick leave, up to a maximum payment of 800 hours.
3. In the event of the death of an employee, payment of accrued sick leave to the employee's beneficiary/estate will be in accordance with the provisions outlined above, with amount of payment based on length of service (i.e. if employee was eligible for normal retirement on the date of his death, accrued sick leave will be paid in the same manner as for normal retirement).
4. The use of sick leave to extend the employee's termination date, i.e., in order to receive a 100% of accumulated sick leave is prohibited.

12.11 Employees who fail to comply with rules and regulations governing the use of sick leave will not be paid for those days of absence and will also be subject to disciplinary action.

ARTICLE 13 HOURS OF WORK AND OVERTIME PAYMENT

13.1 The purpose of this Article is to define hours of work, but nothing in this Agreement shall be construed as a guarantee or limitation of the number of hours to be worked per day, days per week, or for any other period of time, except as may be specifically provided herein.

13.2 The normal work week will be forty (40) hours in a seven (7) calendar day period.

13.3 Except where otherwise specified herein, overtime will be paid at time and one-half (1 ½) the employee's regular pay rate for all hours worked in excess of forty (40) hours of actual work in a scheduled work week. Work schedules will not be changed without five (5) working days of notice. Bereavement leave, Holiday Pay, and Personal Leave, advanced scheduled vacation are considered time worked for overtime calculations provided each were requested and approved in the previous work week. Sick leave or any other paid leave not defined herein will not be considered as time worked for overtime calculations.

13.4 An employee called back to work due to standby status, or a non-declared emergency shall earn a minimum of three (3) hours call back pay which is considered time worked for overtime calculations. An employee does not receive three (3) hours call-back pay for each call back in a work day. If an employee is called back more than once (1) in a work day and his total time is less than three (3) hours, the employee will receive a minimum of three (3) hours call back pay. An employee on standby status will receive credit for one (1) hour per day Monday through Friday, and two (2) hours per day for Saturday, Sunday or holiday which counts as time worked for the purpose of computing overtime.

A City Division requiring workers to be available for emergency work, standby work or overtime work shall initiate and post a format for scheduling workers for duty or availability. If an employee is required to continue work beyond the normal work day then Article 13.3 shall apply. If an employee has been dismissed or released from the work day and is called out to work that same day, then the employee shall be credited with a minimum of three hours of work towards overtime. Only one call out credit can be received during a twenty-four (24) hour period. All work shall be credited towards overtime including up to one-half (½) hour between receiving a call or page and reporting for work. Call out time ends when the employee is dismissed or released by the supervisor at the City work location. The three-hour minimum is not in addition to hours worked, but is considered included in hours worked.

The City may furnish cellular phones, beepers, or require the employee to have a telephone as a condition for being on standby status.

13.5 No employee may authorize overtime for himself or herself but shall be entitled to receive payment for overtime as authorized by management.

Overtime work shall be distributed equitably among employees in a particular job classification within a particular organizational unit as far as the character of the work permits. Although temporary imbalances in the equitable distribution of overtime may occur, departmental management shall make its best efforts to distribute overtime fairly and equitably over an extended period of time. Departmental management shall maintain overtime records, and shall make information concerning overtime available upon request to a Union Steward of the department.

13.6 Overtime payments shall not be duplicated for the same hours worked under any terms of this Agreement.

13.7 An employee who works out of his or her classification, due to absence of another

employee in another position or due to a vacant position, for a period of sixteen (16) hours or less shall not receive additional compensation. An employee who works out of classification due to absence of another employee in another position or due to a vacant position for a period of more than sixteen (16) hours and that classification pays a higher rate than that of the employee's classification will receive a 5% salary increase or the minimum rate of the acting classification, whichever is greater, for all time worked in the higher classification. An employee's pay rate shall not be reduced if the employee is required to work in a lower classification.

The temporary salary increase for out-of-classification assignments shall not continue beyond the temporary assignment; such temporary compensation is not given unilaterally or provided indefinitely to employees perceived to be performing duties of a higher classification while the department/division is fully staffed. This compensation is solely for temporary work assignments in the absence of an employee in an authorized budgeted position for a minimum of forty (40) consecutive hours.

13.8 Employees of the City of Cocoa who work an afternoon shift shall receive a shift differential of fifty cents ($.50) per hour. Employees who work a midnight shift shall receive seventy-five ($.75) per hour shift differential assignments.

ARTICLE 14 WAGES

14.1 A. Effective the first payroll of Fiscal Year 2022, the City shall provide LIUNA bargaining unit members with the following. Appendix B, Classification and Pay Plan will be modified as written in this Agreement and a new pay plan will be implemented adjusting the minimums and maximums for all covered positions.

1. Bargaining unit members currently below the new minimum will be brought to the new pay grade minimum and receive a wage adjustment based on continuous years of service using the following scale:

Tenure Range	Percent Increase
0-1 years	n/a
1-5 years	3%
5-10 years	4%
11-20 years	7%
20+ years	10%

2. If a member's current hourly rate is above the new minimum, they will receive a wage increase in accordance with the above table.

B. For Fiscal Year 2023 and Fiscal Year 2024, the City shall provide bargaining unit members with a three percent (3%) wage increase based on budgetary appropriations and Council budget adoption. If another bargaining unit receives more than a 3% percent across the board increase, the union may open this Article for negotiations. If the 3% wage increase for Fiscal Year 2023 and Fiscal Year 2024 is not appropriated by Council, the City shall give notice of such to the union, and this article will automatically reopen solely for the purposes of negotiating wages for the fiscal year at issue.

C. If an employee's wage is at the maximum for the position, the wage will be frozen at that level and the employee will receive a lump sum payment in the amount of the current wage increase. No wage increases will be permitted until or unless such employee is promoted to a higher position or the pay level is adjusted beyond the employee's current pay level.

14.2 Certification/Licensure Programs:

A. Service Requirement – Completion of at least one (1) year of service with the City as of October 1st of each year is required for an employee to receive payment for professional certification related to the employee's position. Payment will be processed in November timeframe, and wages are subject to tax withholding.

B. Certification Date – The certification(s) must be current and must have been issued no later than April 1st of the year for which payment is requested.

C. Eligible Professional Certifications/Licensures

- Automotive Service Excellence (ASE) Certification

First Certification	$50 year
Each Additional Certification	$25 year
Maximum	$150 year

- Master Mechanic Certification $150 year

  Maximum $300 year

- Herbicide Pesticide Certification

First Certification	$50 year
Each Additional Certification	$25 year
Maximum	$100 year

- Certified Pool Operator $50 year
- Certified Nursery Professional Certification $100 year
- Backflow Tester Certification $100 year
- Backflow Repair Certification $100 year
- Water/Wastewater Plant Operators

Class “C” License	$100 year
Class “B” License	$50 year
Class “A” License	$50 year
Maximum	$200 year

- Water Distribution System Operator

Class 3 License	$100 year
Class 2 License	$50 year
Class 1 License	$50 year
Maximum	$200 year

- Wastewater Collection System Operator

Class C Certification	$100 year
Class B Certification	$50 year
Class A Certification	$50 year
Maximum	$200 year

- Electrician

Journeyman Electrician	$100 year
Master Electrician	$100 year

- Locksmith

Professional Locksmithing	$100 year
Advanced or Commercial Locksmithing	$50 year
Maximum	$150 year

- Commercial Driver’s License (CDL)

D. Employees whose job description requires a Commercial Driver's License, and who do not possess it at the time of employment promotion will be reimbursed the actual cost of the license upon attainment and presentation of a receipt to the employee's Superintendent. Additionally, employees whose job description requires a CDL shall be reimbursed the actual cost of the renewal of the CDL license upon presentation of a receipt to the employee's Superintendent. The City will not provide reimbursement for lost licenses.

E. The City shall pay, on a one-time basis, the fees associated with attaining a State of Florida Class "C" water or wastewater operator's certification and each time renewal is needed (one time) for each re-certification for employees who are employed in the classification of water or wastewater Apprentice Operator or Operator C, B or A, or Water Distribution/Wastewater Collections certifications. The employee shall assume responsibility for all fees associated with re-testing. Although the City will reimburse for the expense of the certification, only the licenses for Operators and Distribution workers will be eligible for License certification pay. Wastewater Collection certifications will also be recognized for Certification Pay as there is no current license requirement for Wastewater Collections at this time.

F. The City shall pay the fees associated with attaining certifications required for LIUNA positions, and recertification, if required. The employee shall assume responsibility for all fees associated with re-testing, if the employee does not successfully attain/pass the certification test. Employees who receive a certificate and/or CDL reimbursement and who terminate employment prior to completion of

one year of service shall repay the City for the reimbursement amount. Said reimbursement may be deducted from the final paycheck of the employee, if sufficient funds are available, or the employee shall be required to provide the reimbursement in cash, check or money order.

14.3 The City will continue to pay 10% add pay (based on the employee's base pay) for the designation of "lead" plant operator for those employees assigned that designation.

14.4 The City shall continue to contribute to existing participants in the 401(A) at a rate of 12%.

ARTICLE 15 HEALTH AND WELFARE

15.1 The City of Cocoa shall furnish hospitalization insurance, as approved by City Council, for the employee at no premium cost. Should the employee elect to have dependent coverage, fifty percent (50%) of the cost of the premium for dependent coverage shall be borne by the City. For Fiscal Year 2022, the City will absorb the cost of the dependent coverage increase on the health plan.

15.2 Eligibility for group insurance coverage and premium payments for retirees shall be in accordance with Resolutions adopted by City Council.

15.3 The City of Cocoa shall maintain group term life insurance policies on all bargaining unit employees at this time equals one times their annual salary as of October in any year. Life insurance coverage will not be adjusted for any employees who may receive a promotion or increase after October of any year.

15.4 If an employee is temporarily suspended from work by the City, the City shall continue all coverages contained in this Article until final disposition of the case. The employee shall be responsible for payment of their benefit deductions, if the employee has elected that benefit option,

during the unpaid status.

ARTICLE 16 BEREAVEMENT LEAVE

16.1 An employee will be granted up to three (3) scheduled working days off without loss of pay or benefits to attend the funeral of a member of the immediate family. Up to an additional two (2) days off may be granted for an out-of-state funeral.

16.2 Immediate family is defined as spouse, and the following biological, adoptive, foster, or "step" relatives; child(ren), son/daughter-in-law, parents, brothers, sisters, grandparents, and grandchild(ren), of both the employee and the employee's spouse. The death of relatives who functioned as part of the immediate family who resided in the member's household may qualify for bereavement leave, at the discretion of the City Manager.

16.3 To be eligible for pay, the employee shall provide management proof of the death in the family as defined above and the date of the funeral through a newspaper obituary, death certificate, or funeral home documentation prior to payroll submittal of time to be paid.

ARTICLE 17 SAFETY AND HEALTH

17.1 The City agrees that it will conform to and comply with laws as to safety, health, sanitation, and working conditions properly required by Federal, State, and local law. The City and the Union will cooperate in the continuing objective of eliminating accidents and health hazards.

Bargaining unit members shall recognize, promote, and adhere to all City of Cocoa Health and Safety Policies and Procedures.

17.2 The City may provide and require employees to wear apparel, safety shoes, protective devices and/or special equipment to reduce accidents and injuries on the job, as determined by the

City. Non-conformance with City safety rules and requirements shall be cause for progressive discipline up to and including discharge.

A. The City will provide keep in stock wide brim hats for those employees working outside as protection from the elements.

B. In accordance with the City's Safety and Loss Control Program, positions designated by management that are required to wear ANSI Z41 approved steel-toe safety shoes daily, will receive a shoe allowance. Eligible employees employed as of October 1 will receive a $120 shoe allowance via payroll by November 15, for the purchase and/or repair of safety shoes. Electricians will receive a safety shoe allowance of $215.00. Employees in designated positions who are hired after October 1st of each fiscal year will receive their shoe allowance at the time of hire. Employees that leave employment prior to the completion of probation will be required to pay such allowance.

Employees who are authorized a safety shoe allowance but fail to wear the required safety shoes may be relieved of duty without pay and subject to disciplinary action.

C. Any in-house safety committee established in a work area where bargaining unit employees work, shall have representation by employees in covered positions as selected by the City.

D. The City shall consult periodically with medical professionals and obtain recommendations for providing inoculations for employees in job descriptions where inoculations are recommended.

ARTICLE 18 BULLETIN BOARDS

18.1 The Union shall be provided partial use of suitable bulletin boards, including at least one

(1) at each area working location so designated by the City, consistent with Section 6.2 of Article 6. The Union may, if it is so desired, provide a bulletin board of standard size for its own exclusive use in keeping with the decor of the working location, with the approval of the City.

18.2 The Union agrees that it shall use space on bulletin boards, as provided in Section 18.1 above, only for the following purposes:

1. Notice of Union Meetings
2. Union elections
3. Reports of Union committees
4. Recreational and social affairs of the Union
5. Notices by public bodies
6. All other postings authorized by the Human Resources Manager

18.3 Copies of all material, notices, or announcements shall be submitted to the Human Resources Manager for approval before they are posted.

18.4 No material, notices, or announcements shall be posted which contain anything political or controversial, or anything adversely reflecting upon the City of Cocoa, its independent agencies, or employees. Any Union authorized violation of this section shall entitle the City to cancel immediately the provisions of this section and to remove bulletin boards or the partial use thereof. The City shall make reasonable effort to prevent unauthorized removal, covering or defacing of Union materials by unauthorized personnel.

ARTICLE 19 JURY DUTY

19.1 Permanent full-time employees shall be granted time off with pay, for reporting for jury duty upon presenting satisfactory evidence relating to service to management. Compensation

received from jury duty will be assigned by the employee to the City.

19.2 If an employee is released from jury duty two (2) or more hours prior to the end of the employee's regularly scheduled work shift, the employee shall be required to report for work except as otherwise authorized by the employee's immediate supervisor.

19.3 In the event an employee who works shifts is called to jury duty, the employee shall be rescheduled to day shift for the duration of said jury duty.

ARTICLE 20 SEVERABILITY

20.1 If any provision of this Agreement shall be found to be invalid by any court having jurisdiction in respect thereof, such findings shall not affect the remainder of this Agreement, and all other terms and provisions shall continue in full force and effect. Upon any such judicial determination, the City and the Union will promptly negotiate and endeavor to reach an agreement upon a substitute for the provisions found to be invalid.

ARTICLE 21 SAVINGS CLAUSE

21.1 All rights, privileges and working conditions enjoyed by members of the bargaining unit at the present time which are included in this Agreement, shall remain in full force and effect unless changed by mutual consent.

21.2 The parties recognize that the City's Employee Handbook and procedures which cover subjects not expressly covered in this Agreement shall be applicable to all bargaining unit employees. No benefits shall exist for bargaining unit members other than those set forth in this Agreement and/or applicable City policies and procedures, and any changes thereto.

ARTICLE 22 PROBATIONARY PERIOD FOR EMPLOYEES

22.1 The City will require a six (6) month probationary period for all new employees in all departments, which may be extended by management for ninety (90) days.

22.2 All probationary employees are to be evaluated in writing at the end of six (6) months.

22.3 Employees covered by this Agreement shall be allowed check-off of Union dues during their probationary period, provided employees request such deduction in writing as outlined in Article 2.

22.4 Initial probationary employees are not covered by the grievance procedure for disciplinary or termination actions.

22.5 All permanent, full-time employees who are placed on probation for any reason (transfer, promotion, demotion or disciplinary action, etc.) shall be notified in writing by the employee's supervisor prior to said probation. No full-time permanent employee may be placed on probation longer than six (6) months and a written evaluation will be conducted at the end of probation.

22.6 Employees who are in their initial probationary period are not eligible for promotional or voluntary transfers during that time. Employees who have successfully satisfied their initial probationary period are eligible for promotional or voluntary transfers during the ninety (90) day probationary period with approval by the Department Director at their discretion.

ARTICLE 23 SENIORITY

23.1 Definitions

City Seniority: City-wide seniority is defined as the length of continuous service with the City of Cocoa. Such seniority shall be acquired by a full-time employee after completion of a probationary period, at which time seniority shall be retroactive to the first day of employment.

City-wide seniority shall apply to accrual of all benefits and to promotional vacancies.

Department Seniority: Department seniority is defined as the length of employment within the employee's current department. Department seniority shall accrue as of the first day of employment or transfer into a new department. Department seniority shall apply in cases of termination by force reduction (layoff). Division seniority shall be considered when scheduling shifts. Division seniority will be considered for requests for vacation only as outlined in Article 10, Vacations and overtime as outlined in Article 13.

23.2 Cumulation: Seniority shall accumulate during absence because of illness, injury, vacation, or other authorized leave.

23.3 Termination of Seniority: Seniority shall be broken when an employee:

A. Terminates voluntarily

B. Is discharged for just cause

C. Is on leave of absence in excess of six (6) months.

D. Is on layoff status and has not been recalled in one (1) year.

E. Retirement.

F. Failure to return from approved leaves of absence (including Family and Medical Leave and Military Leave) or Workers' Compensation disability.

23.4 Leave Without Pay: For unpaid leaves of absence exceeding thirty (30) consecutive days, such time shall not accumulate as seniority, except as otherwise provided by law (e.g., Family and Medical Leave).

ARTICLE 24 REDUCTION IN FORCE

24.1 Should a reduction in the City's work force become necessary, termination by force reduction, hereinafter referred to as layoff, shall be accomplished in the following manner:

A. Layoffs shall be by classification within a department. Upon establishing the number of employees to be laid off within a classification in a department, the City shall layoff the least senior employee first and continue laying off the least senior employee until its force reduction in the affected classification or classifications within that department is met.

B. If an employee is scheduled to be laid off, said employee shall be offered a comparable position or demotion to a lower classification, provided such a vacancy exists and said employee is qualified to fill the position.

C. If there is more than one (1) employee subject to the above provisions, the most senior qualified laid-off employee shall be offered the vacancy. If there is more than one (1) vacancy, said vacancies shall continue to be offered to the senior qualified laid off employee until all vacancies are filled.

24.2 Employees being laid off or demoted shall be eligible for recall in accordance with the following procedure:

A. An employee who is demoted or laid off shall retain recall rights to a job in the same classification within the department from which the employee was demoted or laid off. Recall rights shall remain in full force and effect for a period equal to the employee's total length of service not to exceed one (1) year.

B. The most senior qualified laid off employee shall be offered recall to a job in the employee's classification until the City's staffing requirements are met.

C. Notification of recall shall be sent to a laid off employee by certified mail to the address last known to the City.

D. If the laid off employee fails to respond to the recall notice within ten (10) calendar days from the date of receiving the notice of recall, he/she shall forfeit all further recall rights.

24.3 Employees who are scheduled to be laid off shall receive two (2) week of notice or, in the alternative, two (2) week of pay in lieu of notice.

24.4 If it becomes necessary for the City to abolish a position or reduce the number of employees, severance pay will be granted as follows:

Years of Service	Severance Pay
1-5	2 weeks
6-10	6 weeks
11+	8 weeks

ARTICLE 25 PROMOTIONAL VACANCIES

25.1 Notice of a vacancy in an existing or new position covered by this Agreement shall be posted for a minimum period of five (5) working days on appropriate bulletin boards, with a closing date for in-house applications four (4) days after the posting date, to be considered acceptable notice. Any employee who meets the minimum standards/requirements of the position may apply for the open position by submittal of the appropriate form and a resume detailing their work history and experience by the closing date. Applications received from in-house applicants after the internal posting period will be considered with external applicants, if applicable.

25.2 The Human Resources Division will refer to the hiring department bids from qualified employees for interview. If fewer than three (3) qualified internal candidates apply, external candidates may be interviewed simultaneously. The manager/supervisor to whom the position reports is responsible for interviewing and selecting the candidate who best matches the position requirements. In making this determination, the manager/supervisor shall consider the candidates'

merit and ability, to include, but not limited to training, education, experience, certification, skills, and based on valid minimum standards/requirements outlined in the position description. Additionally, management shall take in consideration past performance history and discipline for supporting a hiring decision. Seniority shall be the governing factor in making the selection only when all other criteria are equal.

25.3 An employee who is promoted to a position with a higher pay range shall have his pay rate increased by 5% and then placed in the new pay range or to the minimum pay rate of the new position, whichever is greater.

An employee who is transferred laterally to another position will not receive any pay increase or decrease. A lateral transfer is defined as going from one position in the same pay grade (minimum salary is the same) to another position in the same pay grade.

In the event an employee is either voluntarily or involuntarily demoted, their pay shall be decreased the same amount it was increased for the related position promotion, but include any annual wage increases that were received during that time. In no case may an employee be paid more than the new pay range.

25.4 In the event an employee is promoted, demoted, or transferred, pursuant to this Article, the employee will serve a probationary period of ninety (90) days in the new position, which may be extended in thirty (30) day increments by the City, regardless of the length of the employee's seniority, not to exceed a total of six (6) months [including the original ninety (90) days probation].

25.5 Should the employee be determined as unacceptable in the new position during the probationary period, the employee shall be returned to his or her former or comparable pay grade/position and rate of pay, if vacant. If a position is not vacant, then the employee shall accept

a position as close to the former position, in terms of pay grade/position and rate of pay, subject to the City's determination that the employee is suitable for the position.

25.6 The City supports and encourages employees to continue education and licenses for further promotion opportunities. The job posting process, outlined in section 25.1 above, should be waived in the following scenarios:

A. The Florida Department of Environmental Protection (FDEP) requires that operators of water and wastewater facilities possess a FDEP operator's license per Department of Environmental Regulation, Chapter 62-602. The City has designated positions from an Apprentice Operator, which is an entry level position and does not possess a license, through an "A" Licensed Operator. Each level of operator has specific criteria for position obtainment identified in the Regulation. The City will promote individuals upon attainment of a higher license when the employee has met the full requirements of the position/license.

B. Employees classified as an Apprentice Electrician or Electrician/Industrial Electrician I will be promoted to the next level (Electrician/Industrial Electrician I or II) after successfully meeting the position requirements.

C. Employees classified as an Environmental Analyst I will be promoted to Environmental Analyst II after successfully meeting the position requirements of the "II" level.

ARTICLE 26 INTENT OF AGREEMENT

26.1 The City and the Union agree that the basic intent of this Agreement is to provide a fair day's work in return for a fair day's pay and to provide conditions of employment suitable to maintain a competent work force. The City and the Union affirm their joint opposition to any discriminatory practices in connection with employment, promotion, or training, remembering that the public interest requires the full utilization of the employee's skill and ability without regard to

union membership, race, color, religious creed, national origin, ancestry, age, gender, family status (except as limited by Florida Statutes governing nepotism), or a disability which does not preclude the performance of the essential functions of the position, with reasonable accommodation(s) provided as necessary.

ARTICLE 27 – EMERGENCY PAY

27.1 Emergency pay is intended to ensure an employee is not economically harmed because he or she cannot report to work on their regularly scheduled workday because the City is closed. The parties agree that LIUNA employees will be subject to the provisions of the Emergency Pay Article herein. The purpose of this policy is to establish a comprehensive plan for pay, leave, and reporting requirements during an emergency declared by City Council, the City Manager, or his/her designee. The policy is intended to cover short-term situations, lasting less than seven calendar days or less. A disaster situation lasting more than one week will necessitate re-evaluation of this Emergency Pay Policy.

27.2 If City Council, or designee, determines in his/her sole discretion, that civil emergency conditions exist, including, but not limited to, riots, civil disorders, hurricane conditions, the provisions of this Agreement may be suspended by the City for the duration of the declared emergency; provided, however, that wage rates and monetary fringe benefits shall not be suspended during the declared emergency period.

The Union retains the right, however, to grieve within ten (10) days of the cessation of emergency conditions the effects of any suspension of contract provisions. The City's Grievance Procedure within the Employee Handbook will apply for any grievances arising from Emergency Pay or operations.

27.3 Emergency pay shall go into effect when the City adjusts work schedules for Emergency Operations and will cease when schedules return to regular shifts. In the event that the City closed administrative and other offices/facilities due to inclement weather (e.g. hurricanes), civil disaster, or other emergency situations, employees will receive emergency pay at straight pay for hours that were not worked for their regular work schedule. An employee who performs work during the emergency pay period will receive double-time pay for all hours worked during the emergency period (excludes standby-by and call-ins). During such emergency, if the City establishes temporary offices/facilities or directs employees to report to work at a work site other than their usual work site, the employees will be required to report to work.

27.4 Employees who are on a non-work status both immediately before and after the City was closed, such as may be the case for workers' compensation claimants, those performing military duty, those on Family Medical Leave, or other applicable leaves, shall remain in that status rather than receiving Emergency Pay.

27.5 With prior authorization from Department Directors, any employee who is unable to report to work during a declared State of Emergency may use personal leave, vacation leave, or sick leave (supported by a physician's statement) to compensate for the time missed. Requests by employees to be excused from work must be arranged in advance of the emergency or, in the case of unforeseen circumstances, reported to the appropriate authority as soon as possible prior to the beginning of the employee's work shift.

ARTICLE 28 – DURATION

28.1 If either the City or the Union desires to modify, amend, or terminate this Agreement at its normal expiration date official notice of such desire must be given in writing at least ninety (90)

days and not more than one-hundred-fifty (150) days prior to the termination of this Agreement. Within thirty (30) days following receipt of such notice, unless there is mutual agreement to the contrary, the City and the Union shall commence negotiations.

28. 2 This agreement shall be effective upon ratification by the City Council and the Union and shall remain in effect up to and including September 30, 2021. Only Article 13 and Article 17 (Shoe Allowance) will be reopened as stated in the respective Article.

CITY OF COCOA

APPENDIX A - EMPLOYEE GRIEVANCE FORM

o **Bargaining** o **PBA**
o **LIUNA**
o **IAFF**

o **Non-Bargaining**

Name: (PRINT)_____

Job Title: _____ **Employee ID: #** _____

Home Address: _____ **Zip:** _____

If Bargaining Unit - provide name of Union Steward: _____

Department: (Check one) ☐ Admin. Services ☐ City Manager ☐ City Clerk ☐ Fire ☐ Public Works ☐ Police ☐ Community Development ☐ Police ☐ Finance ☐ Utilities ☐ Other _____
Division: _____

Policy/Section and/or Contract/Article Violated: Section(s): _____

Page(s): _____ *(Must provide a copy of the page(s) you are referencing)*

Date of Alleged Violation:__ __ / __ __ / __ __

Provide a brief description of the grievance: Explain how the grievance is related to the policy/ section and/or contract/article. (Attach additional sheets if needed): _____
_____
_____
_____

Your Suggested Remedy: _____
_____
_____
_____

Signature of Grievant: _____ **Date:** __ __ / __ __ / __ __

_____

STEP 1

Receiving Supt./Div. Manager: _____ **Date:** __ __ / __ __ / __ __

Hearing Date: __ __ / __ __ / __ __

Response and Date: (See attached response) ☐ **Settled** ☐ **Withdrawn** ☐ **Advanced**

Settled: (Employee Signature):_____ **Date:** __ __ / __ __ / __ __

NOT Settled, Appeal to STEP II. (Employee Signature):_____ **Date**: __ __ / __ __ / __ __

CITY OF COCOA
EMPLOYEE GRIEVANCE FORM

STEP II

Receiving Department Director:_____**Date: __ __ / __ __ / __ __**

Hearing Date: __ __ / __ __ / __

Response and Date: (See attached response) ☐ **Settled** ☐ **Withdrawn** ☐ **Advanced**

Settled: (Employee Signature) _____**Date:** __ __ / __ __ / __ __

NOT Settled: Appeal to STEP III.

(Employee Signature) _____Date: __ __ / __ __ / __ __

STEP III (CITY MANAGER)

Receiving HR Representative: _____Date: __ __ / __ __ / __ __

Hearing Date: __ __ / __ __ / __ __

Response and Date: (See attached response)

Upheld Denied Modified

City Manager: _____Date: __ __ / __ __ / __ __

HR Manager: _____Date: __ __ / __ __ / __ __

APPENDIX B -CLASSIFICATION AND PAY PLAN

COVERED POSITIONS	PAY GRADE
Apprentice Electrician	LU5
Apprentice Operator	LU8
Backflow Technician	LU6
Certified Operator “C”	LU9
Certified Operator “B”	LU10
Certified Operator “A”	LU11
Crew Leader	LU8
Custodial Worker	LU2
Customer Service Representative	LU5
Utility Field Service Representative	LU5
Electrician I	LU6
Electrician II	LU9
Environmental Analyst I	LU8
Environmental Analyst II	LU11
Heavy Equipment Operator	LU7
Industrial Electrician I	LU7
Industrial Electrician II	LU10
Maintenance Worker I	LU5
Maintenance Worker II	LU6
Mechanic I	LU6
Mechanic II	LU8

Meter Reader	LU5
Meter Technician	LU5
Sludge Equipment Operator	LU7
Stock Clerk	LU4
Senior Stock Clerk	LU5
Utility Line Locator	LU6
Utility Mechanic I	LU6
Utility Mechanic II	LU8
Valve Operator	LU6

SIGNATURE PAGE

CITY OF COCOA

Michael C. Blake
Mayor

Stockton Whitten
City Manager

9-14-2021
Date Signed

LOCAL 630

Ronnie Burris
Business Agent

Andy Newsome
Chief Union Steward

09-28-2021
Date Signed

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF COCOA
AND
LABORERS' INTERNATIONAL UNION OF NORTH AMERICA (LIUNA)

This is an agreement between the City of Cocoa, hereinafter referred to as City, and the Laborers' International Union of North America Local 630, hereinafter referred to as LIUNA.

In accordance with Article 5.2, this agreement is intended to document the City's and LIUNA's mutual agreement to amend Article 14 Wages and Article 15 Health and Welfare of the Collective Bargaining Agreement between the City and LIUNA dated October 1, 2018 through September 30, 2021 as stated below (<u>underlined</u> type are additions and ~~strikeout~~ type are deletions to the CBA).

The City and LIUNA agree to the following:

Article 15 – Health and Welfare

15.1 The City of Cocoa shall furnish hospitalization insurance, as approved by City Council, for the employee at no premium cost. Should the employee elect to have dependent coverage, fifty percent (50%) of the cost of the premium for dependent coverage shall be borne by the City. For Fiscal Year 2022, the City will absorb the cost of the dependent coverage increase on the health plan. <u>For Fiscal Year 2023, the City and Bargaining Unit Members will share the premium increase of 9.2% and not follow the 50% of dependent premium split.</u>

Mutually agreed to on July 27, 2022

Signed: Ronnie Burris LIUNA

Signed: _____ City of Cocoa

Legislation Details (With Text)

File #:	22-479	**Version:**	1	**Name:**	
Type:	Informational Item			**Status:**	Agenda Ready
File created:	8/9/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Review of the Memorandum of Understanding between the City of Cocoa and International Association of Firefighters Local 2416 to amend Article 28 Insurance regarding health insurance.				
Sponsors:	Department Director				
Indexes:					
Code sections:					
Attachments:	IAFF Agreement (October 1, 2021-September 30, 2024).pdf IAFF MOU Health Insurance (8-2-22).pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 9, 2022
Agenda Date: August 23, 2022
Prepared By: Tammy B. Gemmati, Administrative Services Director
Through: Stockton Whitten, City Manager
Requested Action:
Review of the Memorandum of Understanding between the City of Cocoa and International Association of Firefighters Local 2416 to amend Article 28 Insurance regarding health insurance.

BACKGROUND:

The City of Cocoa and the International Association of Firefighters (IAFF) Local 2416 have an existing collective bargaining agreement in effect for October 1, 2021 - September 30, 2024. Article 4.1 of the agreement allows for modification of an article with mutual consent by a letter of agreement.

The City and IAFF entered into a Memorandum of Understanding (MOU) on September 24, 2020 between IAFF President Charles Burkhardt and City Manager Stockton Whitten to document the mutual agreement to share the health insurance increase of 9.2% for dependent coverage for Fiscal Year 2023. City Council approved this at regular City Council Meetings on July 12, 2022. This MOU is being done to document the mutual agreement to do so under the CBA. A copy of the executed MOU is attached, which outlines the modifications to the collective bargaining agreement.

STRATEGIC PLAN CONNECTION:

Employees- By entering into this MOU with LIUNA it increases employee morale and builds

employee retention.

BUDGETARY IMPACT:

Budgeted Yes

Benefits in respective FY2023 Fire benefit accounts.

PREVIOUS ACTION:

At the Regular City Council Meeting on September 14, 2021, City Council approved the three-year contract between the City of Cocoa and International Association of Firefighters Local 2416.

RECOMMENDED MOTION:

N/A.

AGREEMENT

BETWEEN

CITY OF COCOA

AND

INTERNATIONAL ASSOCIATION OF

FIREFIGHTERS, LOCAL 2416

October 1, 2021 to September 30, 2024

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PREAMBLE

This Agreement is entered into by and between the City of Cocoa, herein referred to as the "City", and Local 2416, International Association of Firefighters (IAFF), hereinafter referred to as the "Union", to establish an orderly and peaceful procedure for settling differences which arise, and to set forth an agreement between the parties concerning wages, hours and other terms and conditions of employment.

The Union hereby and herewith covenants, agrees and represents to the City that the Union is duly authorized and empowered to covenant for and on behalf of all employees in the bargaining unit and represents that it, and the employees it represents, will faithfully and diligently abide by and be strictly bound to all of the provisions of this Agreement as herein set forth.

Likewise, the City hereby and herewith covenants, agrees and represents to the Union that it will faithfully and diligently abide by and be strictly bound to all provisions of this Agreement as set forth herein.

ARTICLE 1 - RECOGNITION

1.1 The parties agree that the Union is recognized as the exclusive bargaining agent for all bargaining unit members of the City of Cocoa Fire Department as determined by the Florida Public Employee Relations Commission and set forth in Certification #206. Covered members include all employees of the City of Cocoa Fire Department in the positions of Firefighter and Fire Lieutenant[1].

[1] The City and Union have agreed to jointly file a Unit-Clarification Petition with PERC during Fiscal Year 2022 to add the Driver/Operator position to the bargaining unit.

1.2 The City herewith covenants, agrees and represents to the Union that it recognizes its obligation to bargain with the Union, only through the Union President and/or his/her representative, over wages, hours, and terms and conditions of employment of employees represented by the Union, and that it will faithfully and diligently abide by its obligation to bargain.

1.3 The Union herewith covenants, agrees and represents to the City that it recognizes its obligation to bargain with the City, only through the City Manager and/or his/her representative, over wages, hours, and terms and conditions of employment of employees represented by the Union, and that it will faithfully and diligently abide by its obligation to bargain.

ARTICLE 2 - DISCRIMINATION

2.1 The City and the Union agree not to discriminate in any way, including the application of the articles of this Agreement, against employees covered by this Agreement on account of membership or non-membership in the Union, or on account of race, religion, sex, color, national origin, age, physical handicap, marital status, creed, political affiliation, or because of activities undertaken for the mutual benefit and protection of members of the Union.

2.2 Members of the bargaining unit agree that they will perform their respective duties loyally and continuously under the terms of this Agreement, and will pledge to protect the interest of the City, to conserve property, protect the public and give service of the highest quality.

2.3 In exchange, the City pledges to the Union and the members of the bargaining unit, employment (provided sufficient funds are available), wages, and those privileges and benefits in accordance with the provisions of this Agreement.

ARTICLE 3 - SEVERABILITY

3.1 If any provision of this Agreement, or the application of such provision, should be rendered invalid by the final action of a court of competent jurisdiction because of any existing or subsequently enacted legislation, the remaining parts of this Agreement shall remain in full force and effect. If such an invalidating action occurs, the Union and the City will meet at the request of the Union and attempt to agree upon a replacement article or articles.

ARTICLE 4 - APPENDICES AND AMENDMENTS

4.1 Any appendices or amendments that may be mutually agreed upon between the parties during the terms of this Agreement shall be lettered, dated and signed by the appropriate, responsible parties, ratified by the members of the bargaining unit and the City Council, and will become a part of this Agreement and subject to all its other applicable terms.

ARTICLE 5 - PREVAILING RIGHTS

5.1 All rights, privileges, and working conditions enjoyed by bargaining unit employees which are included in this Agreement, shall remain in full force and effect unless changed by mutual consent, or as otherwise allowed by this Agreement or applicable law.

ARTICLE 6 - MANAGEMENT RIGHTS

6.1 The City shall have the right to determine unilaterally the purpose of each of its constituent agencies, set standards of services to be offered to the public, and exercise control and discretion over its organization and operations. It is also the right of the City to direct its employees, take disciplinary action for just cause, and relieve its employees from duty because of lack of work or for other legitimate reasons. The City shall also have the right to exercise any

other prerogatives established by law and/or as determined by the Public Employees Relations Commission or a court of competent jurisdiction. However, the exercise of such rights shall not preclude employees or their representatives from raising grievances, should decisions on the above matters have the practical consequence of violating the terms and conditions of any collective bargaining agreement in force.

ARTICLE 7 - POLICIES AND PROCEDURES

7.1 Except as modified by a specific provision of this Agreement, employees covered hereunder shall comply with all rules, regulations, policies, procedures, and practices of the City and the Fire Department, including the Personnel Policies Manual and/or the new Employee Handbook, the Safety Manual and the Managed Care Arrangement.

7.2 The City reserves the right to add, modify, change or delete any existing personnel policies and procedures of the City of Cocoa and the Fire Department provided, however:

1. That no changes or new rules shall negate, override, contradict or circumvent any provision of this Agreement.

2. That the Union shall be notified, in writing, not less than twenty (20) days before the City plans to substantially change or implement a new rule. If either the Union or the City request a ten (10) day extension in writing, it will be granted if requested within ten (10) days prior to policy or procedure effective date. Additional timeframe extensions may be given with mutual agreement between the Union and the City. During this time period the Union will notify the City if it wishes to engage in impact bargaining and identify the impacts to the City.

3. That the City will not implement new rules until the Union has been given the opportunity to collectively bargain over the change and/or the impact any such changes

may have upon the terms and conditions of employment of the members of the bargaining unit.

4. That when such changes or new rules are implemented, all employees and the Union shall be provided a copy electronically in order for the employees and the Union to become familiar with the content and operation.

ARTICLE 8 - GRIEVANCE PROCEDURE

8.1 A grievance, within the meaning of this Agreement, shall be defined as a dispute regarding the interpretation and/or application of a specific clause of this Agreement arising during the period of time expressly covered by this Agreement. All grievances must be filed at Step 1 within sixty (60) calendar days of the occurrence or when the employee should have reasonably been aware of the issue.

INFORMAL STEP: The Union and the aggrieved bargaining unit employee shall discuss verbally with Management the incident or the occurrence that gave rise to the grievance. Management shall respond to the member or the members of the bargaining unit within ten (10) calendar days from the end of the shift that the incident or occurrence was discussed. If the bargaining unit employee or employees believes the incident has not been resolved, he/she shall advance the grievance to Step 1 of the Grievance Procedure.

STEP 1: The grievance will be submitted, in writing on the attached Grievance Form, to the Fire Chief, or his/her designee. The Fire Chief, or his/her designee, shall meet with the Union and the aggrieved employee or employees, within ten (10) calendar days of receipt of the grievance. The Fire Chief, or his/her designee, shall render a written decision within ten (10) calendar days following the Step 1 grievance meeting.

STEP 2: If the grievance is not settled at Step 1, the grievance shall be submitted to the City Manager, or his/her designee, within ten (10) calendar days of when the response was due, in Step 1. The City Manager, or his/her designee, shall meet with the Union and aggrieved employee or employees, within ten (10) calendar days following receipt of the grievance. The City Manager, or his/her designee, shall render a decision within fourteen (14) calendar days following the Step 2 grievance meeting.

STEP 3: Any dispute over the nature and scope of the remedy shall be resolved by the Arbitrator pursuant to this Article. Any grievance not otherwise resolved through the foregoing steps may be referred to arbitration within fourteen (14) calendar days of the time the City Manager's response was due. Any request for extension of the time limit may be granted by written mutual consent.

8.2 Rules of Grievance Procedure:

A. A written grievance shall be dated and signed by the aggrieved employee and the Union representative presenting it. A written decision to the employee shall also be forwarded to the Union representative and shall be dated and signed by the appropriate City representative.

B. All grievances must be reduced to writing at Step 1, and must set forth:

1. A complete statement of the grievance and facts upon which it is based.

2. The remedy of correction requested.

3. The section or sections of this Agreement claimed to have been violated.

C. At any step of the grievance procedure, the Fire Chief or the City Manager may appoint a person to act on his/her behalf.

D. Any of the time limits specified above may be extended by written mutual consent.

E. When a grievance is general in nature in that it applies to a number of members of the bargaining unit having the same or similar issue(s) to be decided, it shall be filed by the President of the Union or his designee.

F. The Union must be invited to attend any meeting where the resolution of a grievance may occur.

G. The Union and/or employee must select either this Grievance Procedure or the City's grievance/hearing procedures as outlined in the City Personnel Policies as to any matter covered by this Agreement. In no case can the Union and/or employee pursue a grievance under this Agreement and a grievance/hearing under the City's Personnel Policies. Whichever procedure is first initiated shall be the Unions/employee's exclusive avenue of formal internal redress.

H. The Union Executive Board shall determine if any Grievance moves to Arbitration.

8.3 Rules of Arbitration:

1. The parties to this Agreement will attempt to agree upon an independent arbitrator. If the parties cannot agree, either party will contact the Federal Mediation and Conciliation Service to request a panel of nine (9) arbitrators from which a selection shall be made. Each party has the right to request one (1) new panel of arbitrators. The arbitrator shall have the jurisdiction and the authority to hear a grievance as defined in this Article

and to render a decision which is binding on both parties. However, the arbitrator shall not have authority to change, amend, add to, subtract from, or otherwise alter or supplement this Agreement or any part thereof or any amendment thereto.

2. The parties shall attempt to agree in writing as to the statement of the matter to be arbitrated prior to the hearing.

3. Each party shall bear the expense of its own witnesses and its own legal representatives. The expenditures of the impartial arbitrator shall be borne by the losing party as directed by the arbitrator. In the event there is not a directed losing party, the expense of the arbitrator shall be borne equally. Any party requesting a copy of the transcription of such arbitration hearing shall bear the cost of same.

ARTICLE 9 - PROBATION

9.1 All new employees in the Fire Department bargaining unit will serve twelve (12) months of probation. New hire probationary employees may be terminated with or without cause at management's discretion during the probationary period. The probationary period for bargaining unit employees promoted from Firefighter to Lieutenant or Firefighter to Driver will be for a period of six (6) months. In the event a bargaining until employee takes a leave of absence, the probationary period will be resumed and continued for the length of the absence.

9.2 New hire probationary employees may not take vacation during the first six (6) months of the probationary period. After six (6) months they may take vacation as long as they have a satisfactory or above performance evaluation.

9.3 New hire probationary employees will not attend City-sponsored schooling unless approved by the Fire Chief or his/her designee.

9.4 New hire probationary employees shall not be allowed shift exchanges while on probation. Exceptions may be allowed with the approval of the Fire Chief or his/her designee.

9.5 New hire probationary employees on shift shall be tested every three months on streets, addresses, block numbers, fire suppression systems, equipment, standard operating procedures and rules and regulations of the department, firefighting skills, patient care, hazardous materials, driving, operating and pumping of apparatus and equipment. The test shall be a written and performance based test in accordance with the standard operating procedures for probationary employees, and probationary employees shall be required to achieve a minimum score of 75% on all component tests. Probationary employees scoring less than 75% on a component test will be entitled to one (1) retest.

9.6 Probationary employees shall be evaluated as directed by the Fire Chief or his/her designee in accordance with the Department's established policies and procedures.

ARTICLE 10 - DUES DEDUCTION

10.1 The City shall deduct Union dues from the pay of each bargaining unit employee covered by this Agreement, provided that at the time of such deduction there is in the possession of the Payroll Section of the Finance Department of the City a current written authorization by the bargaining unit employee submitted by the Union. Such authorization may be revoked by the bargaining unit employee at any time upon at least thirty (30) days written notice to the Union and to the Human Resources. Dues shall be deducted on a bi-weekly basis.

10.2 At the time of execution of this Agreement, the Union shall advise the Payroll Section of the City, in writing, of the exact amount of regular monthly dues. Thereafter, if the Union requests the Payroll Section of the City to deduct a different amount of dues, such request shall be effective only upon a written statement by the Treasurer of the Union to the Payroll Section

of the City that the new amount is for regular dues only approved by the members in accordance with the applicable law.

10.3 The Union will indemnify, defend and hold the City harmless against any claims made and against any suit instituted against the City because of actions taken by the City in good faith reliance of the force and legality of the Union dues check-off forms provided by the Union.

10.4 All amounts deducted from the pay of members pursuant to this Article shall be remitted by electronic payment to the Treasurer or other Union designated financial officer along with an official printout documenting the deductions within ten (10) calendar days of the month following on which the deductions were made.

ARTICLE 11 - OCCUPATIONAL SAFETY AND HEALTH

11.1 The City agrees to comply with all applicable safety and health laws and regulations applicable. Given the inherent dangers and risks associated with the fire service, the City agrees to implement precautionary measures as necessary to promote the health and safety of its Fire Department personnel.

A. A Fire Department Workplace Safety Committee composed of four (4) members, two (2) members appointed by the Union President and two (2) members appointed by the Fire Chief, or his/her designee. The City's Safety Coordinator shall serve as an advisor to the committee.

B. The goal of the committee is to achieve and maintain the highest standards of safety and health in the Fire Department in order to eliminate, as much as possible, accident, death, injuries and illness to personnel. The Committee shall adopt rules prescribing the duties and functions of the Fire Department Safety and Health Committee that will be documented in the Cocoa Fire Department Safety and Health Manual. These

rules should include, but are not limited to, assisting in the development and implementation of procedures for conducting workplace safety inspections and reviewing workplace accidents and injuries; evaluating accident prevention and illness-prevention programs; and making recommendations that will include training for Committee members.

C. Safety and Health Committee members may be allowed time off with pay to attend meetings as approved by the Fire Chief or his/her designee and shall receive no additional compensation without prior authorization of the Fire Chief or his/her designee.

11.2 All members covered by this agreement hired on or after October 1, 2015, shall be required to sign an individual agreement to acknowledge they will be a non-user of any tobacco products while on or off duty for the full length of their employment. Tobacco usage is defined as smoking cigarettes, electronic cigarettes, cigars, pipes, or use of any type of tobacco products of any kind at all times, whether on or off duty. Violation of this provision will be subject to disciplinary action, up to and including termination. The parties further agree to encourage members hired before October 1, 2015, to stop using tobacco products. The City shall work with these affected members to develop a tobacco cessation program. Voluntary participation in such program is to be performed off-duty.

ARTICLE 12 - BULLETIN BOARDS

12.1 The City will authorize the Union use of bulletin boards at each Fire Station. The boards will be used only for the following notices:

1. Recreational and social affairs of the Union.
2. Union meetings.
3. Union elections.

4. Reports of Union committees.

5. Newspaper clippings.

6. Other official Union communications.

All notices posted on the Union bulletin boards will contain the signature of the Union Representative. Bulletin boards shall remain neat, organized and its information current.

12.2 Notices and announcements shall not contain anything political or controversial, reflecting upon the City, any of its employees, or any labor organization among its employees, and no material, notices or announcements which violate the provisions of this Section shall be posted.

12.3 Any violations of this Section shall entitle the City to immediately remove any offending materials.

ARTICLE 13 - PROMOTIONS

13.1 Promotions shall be in accordance with the Fire Department's Promotions SOPs, as created by the Fire Department. Any changes in this policy will be made by mutual agreement of the City and Union at least three months prior to the test.

A. Applicants must notify the Fire Chief, or his/her designee, at least thirty (30) days prior to the exam date, of their commitment to sit for the exam, along with copies of certifications/degrees applicable to promotion for consideration of the Fire Chief or designee to be time/date stamped for the record. No applicant will be allowed to leave the examining room until the test is completed and turned in.

B. When a vacancy exists the City will make every effort to fill the vacancy within forty-five (45) days.

13.2 Promotions to the rank of Driver-Operator shall be based on the selection of the best qualified bargaining unit employee for the position available in accordance with the Fire Department's Promotions SOP.

A. Consideration for Driver-Operator will require a State of Florida Pump Operators Certification* and a minimum of two (2) years of unbroken and continuous service as a full-time Firefighter with the City of Cocoa prior to the date of the examination.

B. The eligibility process for as a Driver-Operator will be given in April of odd numbered years (every two years), in order to establish an eligibility list. The eligibility process shall consist of both a written exam and practical exercise. Subject areas and reference materials to be covered on the written exam will be announced ninety (90) days prior to the examination date and made available to all interested parties.

13.3 Promotions to the rank of Lieutenant shall be based on the selection of the best qualified bargaining unit employee for the position available in accordance with the Fire Department's Promotions SOP.

A. Consideration for promotion to Lieutenant will require a Florida Fire Officer One Certification and a minimum of four (4) years of unbroken and continuous service as a full-time Firefighter with the City of Cocoa prior to the date of the examination.

B. The promotional process will be given in April of even numbered years in order to establish an eligibility list. Subject areas and reference materials to be covered on the written exam will be announced ninety (90) days prior to the examination date and made available to all interested parties.

ARTICLE 14 - NO STRIKE CLAUSE

14.1 The Union and any and all members shall not cause, engage in or sanction any strike, slowdown, or other illegal concerned action for the term of this Agreement. Nor shall there be any strike or interruption of work during the term of this Agreement because of any dispute or disagreement between any other persons who are not signatory parties to this Agreement.

14.2 The Union and any and all members agree that for the term of this Agreement it shall not cause, engage in or sanction any picketing or demonstrating in furtherance of a work stoppage.

14. 3 There will be no lock-out by the City for the duration of this Agreement.

ARTICLE 15 - WORKING OUT OF CLASSIFICATION

15.1 Any member of the bargaining unit required to work in a higher classification shall receive out of classification pay for each hour worked in such capacity in accordance with section 15.2.

15.2 Effective after the 2022 Lieutenant test and the 2023 Driver/Operator test, working out of class will only be offered to members on the eligibility list. Until the new promotional lists have been established, all opportunities for working out of classification within the rank of Lieutenant or Driver/Operator shall be first assigned to Firefighters on the current Lieutenant promotional list or Driver/Operator eligibility list. Once these lists have been exhausted, it should be offered, by seniority, to a member who has completed the requirements of 15.6 of this Article and will receive five percent (5%).

15.3 The pay differential for Driver/Operators on the promotion list will be seven and a half percent (7.5%). The pay differential for Lieutenants on the promotional list will be ten percent

(10%). However, if there is a Lieutenant and/or Driver/Operator working from another shift due to overtime or shift exchange, he/she shall be assigned as a Lieutenant and/or Driver/Operator and working out of classification pay is not applicable.

15.4 Lieutenants that successfully complete the in-house training program shall be eligible for working out of classification as a District Chief, if not in a probationary status and after the check-off is completed and shall receive ten percent (10%). Those that have not completed the training program will receive five percent (5%).

15.5 The City may assign bargaining unit employees to work out of classification to temporarily fill vacancies within Fire Department positions.

15.6 All eligible bargaining unit member will be offered an in-house training program that must be completed successfully to be assigned in a working out of classification position.

ARTICLE 16 - COUNSEL SERVICES

16.1 The City agrees, to the extent provided by its liability insurance, to undertake and pay for the defense of civil damage actions against any bargaining unit employee arising from or out of his/her actions and/or omissions in the course and scope of his/her employment or service as an employee, and the City will file proper and appropriate legal pleadings in such actions; The Union shall be kept fully informed regarding the City's defense of the bargaining unit employee, and shall fully cooperate in such defense.

16.2 The City agrees to indemnify, through its liability insurance, a bargaining unit employee for judgments levied against him/her as a result of the bargaining unit employee's actions while acting in the scope of his/her employment; provided, however, that the City shall have no obligation to defend or indemnify a bargaining unit employee where such employee's actions were

outside the course and scope of his/her employment, or were committed in bad faith, or were committed with malicious purpose, or were committed in a manner exhibiting wanton and willful disregard for human safety or property.

16.3 If the City and a bargaining unit employee are co-defendants in the same civil action, such action shall not be settled by the City unless prior to such settlement the City meets with the bargaining unit employee and his/her attorney, to advise them about settlement.

16.4 The application of this Article will not diminish an employee's rights under Florida Statutes Section 768.28(a).

ARTICLE 17 - ASSIGNMENT DURING NON JOB-RELATED DISABILITY

17.1 In the event a bargaining unit employee is unable to perform his or her regular duties because of a non-job related condition, the Fire Chief will attempt to provide a light duty assignment, within the Fire Department. The light duty assignment is subject to the following:

A. Employees are responsible for submitting a written request to Human Resources for consideration of reasonable accommodations, including but not limited to incapacity due to pregnancy, injury, or condition. Upon request, employees procedures may be modified as appropriate to reasonably accommodate qualified individuals with disabilities in accordance with the American with Disabilities Act (ADA).

B. Completion of the City's established certification form(s) is essential which includes determination from a competent medical authority that the employee is medically fit to work in a light duty assignment and provide the work limitations and/or restrictions along with a projected duration of these limitations and/or restrictions.

17.2 The Fire Chief, or his/her designee, shall have the sole discretion to determine whether there is work to be done at the department level. Such requests for light duty assignments (off the job injuries) shall be reviewed on a case-by-case basis and is not a guarantee of paid employment. All light duty assignments shall involve the performance of productive work necessary for the efficient and economical operation of the department and/or City. Any changes in light duty assignments will be coordinated with the Fire Chief or designee in concurrence with Human Resources / Safety & Risk Management.

17. 3 Light duty assignments during non-job-related disability shall not exceed ninety (90) consecutive days in a twelve (12) month period, unless otherwise required by applicable law. In the event there is limited light duty work preference shall be afforded to bargaining unit employees with a job-related injury or condition. Extensions to this time period must be approved by the Fire Chief and the City Manager and documented in writing.

17.4 In the event the duration of an employee's light duty assignment will be greater than the payroll period, the employee shall be changed to a forty (40) hour workweek with their hourly rate converted to a 40-hour equivalent and their leave accruals shall be adjusted accordingly.

17.5 Employees returning to full duty must submit to Human Resources a completed Return to Work form and obtain approval from Human Resources prior to returning to their normal shift.

ARTICLE 18 - GENDER

18.1 Whenever the male gender is used in this Agreement, it shall be understood to mean male or female members of the bargaining unit unless the context in which it is used renders it biologically unlikely or impossible.

ARTICLE 19 - SANITATION, MAINTENANCE AND UPKEEP

19.1 The City agrees to supply and make available for the benefit of bargaining unit members materials required in the day-to-day maintenance and upkeep of floors, windows, kitchen appliances and utensils, sleeping quarters, showers and bathroom facilities at all Fire Stations or other work locations of bargaining unit members. Furthermore, the City agrees to provide items necessary to satisfactorily maintain sanitary conditions of all quarters within all work locations. This includes the administrative offices in fire stations. Bargaining unit employees are not responsible for maintaining or cleaning the administration take home vehicles.

19.2 Any materials or supplies needed to clean and maintain fire and rescue apparatus will be provided by the City. The City will be responsible for providing appropriate soaps or other cleaning agents to enable bargaining unit members to safely remove lubricants and other slippery materials from apparatus and floors, and to maintain a presentable appearance.

19.3 Agricultural, horticultural, and major facilities repair and non-routine maintenance services provided at other City locations will be provided at all Fire Station facilities.

ARTICLE 20 - STAFFING AND EQUIPMENT

20.1 The City shall determine, in its sole discretion, the type and number of equipment and apparatus to be used in the provision of fire and rescue services. The City shall also determine, in its sole discretion, the number and type of personnel to be assigned the shifts, apparatus and equipment. In establishing such staffing, the City shall consider safety (public employee), cost (including overtime expenses) and all other factors deemed relevant by the City.

20.2 When the food and personal needs of fire or rescue companies require visits to retail establishments, the companies shall be required to stay in service. Every reasonable effort will be

made to secure the vehicle and its contents. Whenever possible, visits to any retail establishment shall be made during the return from another station or from a service connected trip.

ARTICLE 21 - DISCIPLINE AND DISCHARGE

21.1 Management shall have the right to discipline, demote, or terminate a bargaining unit member for just cause.

ARTICLE 22 - TRANSFER

22.1 Members of the bargaining unit shall have the right to temporarily exchange station assignments in the same classification, upon providing at least a minimum of twenty-four (24) hours advanced written request. The request must have the written approval of the Fire Chief or his designee. Any such transfer shall not reduce or impair the ability of the Fire Department to provide necessary services. When a vacancy occurs in a bargaining unit position, the senior member holding that same classification shall be given first consideration for transfer to that vacant position. Employees in a probationary period status are not eligible for station transfers.

22.2 Any transfer, whether temporary or to fill a vacant position, may be granted as long as there is no cost or additional expense to the City.

22.3 If the City determines a shift transfer is required, the least senior firefighter in the job classification, to include EMT/Paramedic and Solo-Paramedic, that is necessary shall be moved.

22.4 Once the member has been transferred based on the operational need once in a 12-month period and that member would be subject to a second transfer based on the operational need in the same 12-month period, then that member shall be skipped and the transfer will fall to the next least senior member of that shift.

ARTICLE 23 - INVESTIGATIONS

23.1 The City shall comply with the Firefighter Bill of Rights whenever a bargaining unit member is under investigation and/or discipline may be given. Bargaining unit members may request Union representation (including legal counsel) for an investigation/hearing that may lead to discipline.

ARTICLE 24 - PERSONNEL FILES

24.1 Members of the bargaining unit have the right to review or copy their official personnel files in the Human Resources Division or any Florida Statute Chapter 119 public records that pertain to the members of the bargaining unit in accordance with the City of Cocoa policy of fees for duplication of public records.

24.2 Members of the bargaining unit have the right to include in any personnel files any certificates, records of achievement, and rebuttal to any derogatory information.

24.3 The City agrees that a copy of adverse or derogatory written material will not be placed in the file of any member of the bargaining unit until a copy is provided to the employee.

24.4 Oral and Written discipline over 24 months in the personnel file will not be considered as a basis for further disciplinary action. This exclusion does not apply when the offense of the reprimand involves harassment or workplace violence.

ARTICLE 25 - SHIFT EXCHANGE

25.1 A request to exchange shifts form shall be filled out, signed, and turned in to the Fire Chief or his/her designee at least one shift in advance of the requested shift exchange date by the employees agreeing to exchange shifts. Except for unforeseen circumstances, the request shall include the date the employee requesting the shift exchange will pay the employee working the

shift exchange back. Requests for shift exchange may be denied by the Fire Chief or his/her designee, if the shift exchange will interfere with the operation and/or activities of the Fire Department.

25.2 Shift exchange will be in writing and signed by both parties participating in the exchange on department approved forms. Tracking of exchanged time shall be the responsibility of bargaining unit members. All exchanged time, duty assignments and job tasks shall be the sole responsibility of the rescheduled employee. All shift exchanges must be completed within 12 months.

25.3 Shift exchanges may be granted as long as there is no cost or additional expense to the City and does not interfere with the operation and or activities of the Fire Department, to include, but not limited to maintaining the type and level of service as determined by the City.

25.4 Lieutenants may only exchange with another Lieutenant or Firefighter on the current Lieutenant Promotional List, or members who have completed the requirements in 15.6. Driver/Operators may only exchange with another Driver/Operator or Firefighter on the current Driver/Operator Promotional List, or members who have completed the requirements in 15.6. Effective after the 2022 Lieutenant test and the 2023 Driver/Operator test, shift exchanges will only be offered to members on the eligibility list. In the event the promotional list is exhausted, as there are no members on the list, employees exchanging shifts must be able to fulfill all the duties of the position/employee with which they are exchanging shifts.

25.5 The unit member agreeing to work the shift will be responsible and held accountable for the duty time. If the agreeing unit member agrees to work for another unit member but calls in sick and does not report for work, a physician’s note will be required of the employee in order to utilize sick leave to cover lost time from work. The agreeing member is not eligible to

use vacation on a shift that he/she has agreed to work. In the event a unit member has failed to report to duty on an agreed shift exchange on multiple occasions, the unit member will lose the privilege for the shift exchange for one year.

25.6 All shift exchanges will be for time only. No other compensation is allowed.

ARTICLE 26 – UNIFORMS

26.1 Shift bargaining unit employees will be furnished all items of required uniforms in accordance with applicable Department Policy on an as needed basis and subject to annual budget appropriations and availability of item:

1. Uniform shirts, long or short sleeve=
2. Uniform or workout shorts
3. Dark blue uniform trousers
4. 1-1/4 inch black leather belt
5. Cocoa Fire Department badges
6. Name tags
7. T-shirts or casual style shirt
8. C.F.D. (Cocoa Fire Department) baseball type cap
9. Logo job shirt

26.2 The City will continue to replace any articles of uniform as they become worn, torn, or otherwise unserviceable due to normal wear and tear. Any member of the bargaining unit found to have lost, damaged, or destroyed articles of uniform through negligence will be required to pay for replacements. The cost of any required replacement, in such case, shall be through weekly deductions from the member's paycheck, of not more than twenty-five dollars ($25.00).

26.3 In lieu of a cleaning allowance, washers and dryers will be maintained in each of the stations. City washing machines and dryers may only be used for washing City issued items and linens/bedding used at the station.

26.4 Upon separation from employment with the City of Cocoa Fire Department, all issued equipment and serviceable uniforms will be returned. Any bargaining unit employee who retires from the City may retain one badge and a helmet.

26.5 Uniforms and/or equipment issued by the City shall not be worn off duty unless performing a function for the City or in the best interest of the City, with the permission of the Fire Chief. Non-uniform t-shirts can be worn off duty with the permission of the Fire Chief.

26.6 The City shall repair or replace wristwatches of comparable worth, not to exceed one hundred ($100.00) dollars and prescription eye wear not to exceed two hundred ($200.00) dollars, if broken or lost on duty, through no negligence of the bargaining unit employee, and provided it is reported while the bargaining unit employee is still on duty. Any claims made after the bargaining unit employee goes off duty will not be considered. Members of the bargaining unit will be reimbursed up to one hundred ($100.00) dollars annually each fiscal year, for the purchase of shoes approved by the Fire Chief.

ARTICLE 27 - MILEAGE ALLOWANCE

27.1 Bargaining unit employees using their private vehicle for Fire Department business with prior approval of the Fire Chief or his/her designee, shall be compensated at the applicable City rate.

ARTICLE 28 - INSURANCE

28.1 The City will pay one hundred percent (100%) of the cost of the member's plan premiums, (up to the cost of the Core Plan), and fifty percent (50%) of the cost of the Core Plan for dependent premiums or other costs, providing sufficient revenues permit. For Fiscal Year 2022, the City will absorb the cost of the dependent coverage increase on the health plan.

28.2 The City will pay one hundred percent (100%) of the cost of member's long-term disability coverage.

28.3 Health and hospitalization benefits for future retirees will be provided in accordance with City Resolution 95-27 and Resolution 2008-133, as may be amended by City Council.

28.4 The Union will be allowed to have a representative on any Advisory Committee formed to review Health and Hospitalization Insurance.

28.5 The City will provide group health insurance to bargaining unit employees on the same basis as such is provided to other City employees. No changes shall be made to existing benefits and/or premiums without first providing the Union with thirty (30) days of notice of any proposed changes. Bargaining unit employees shall also be able to participate in the City's flexible spending plan on the same basis as other City employees.

ARTICLE 29 - WAGES

29.1 Effective the first pay period of Fiscal Year 2022, the City shall provide a seven percent (7%) wage increase for bargaining unit members employed prior to January 1, 2021 For Fiscal Year 2023 and 2024, the City shall provide bargaining unit members with a three percent (3%) wage increase based on budgetary appropriations and Council budget adoption. If another bargaining unit receives more than a 3% percent across the board, the union may open this Article

for negotiations. If the 3% wage increase for Fiscal Year 2023 and 2024 is not appropriated by Council, the City shall give notice of such to the union, and this article will automatically reopen solely for the purposes of negotiating wages for the fiscal year at issue.

29.2 For Fiscal Year 2022, bargaining unit members hired after January 1, 2021 will be brought to the new minimum. For Fiscal Year 2023 and 2024, bargaining unit members employed for a partial fiscal year will receive a prorated wage increase equivalent to the number of full calendar months they were employed. For example, a Firefighter with a new hire date of June 15, will be eligible for 3/12 of the annual wage increase, in accordance with 29.1, with counting months of July- September and new hire that starts on June 1 would receive 4/12 of the annual wage increase with counting the month of hire as a full month.

29.3 Under no circumstances will employees be eligible to receive a wage increase above the maximum for their pay grade. Once the maximum has been reached, the employee will receive a lump sum for equivalent wage increase amount.

29.4 Employees who are promoted to Lieutenant or Driver/Operator Classification shall be placed in the new rank at the minimum, or receive a 5% increase, as defined in the City Personnel Policies, whichever is greater.

29.5 The Pay Plan for bargaining unit members is:

Classification	Firefighters	Driver/Operator	Lieutenants
Minimum	$38,116	$46,488	$57,954
Maximum	$66,300	$69,600	$82,800

ARTICLE 30 - INCENTIVE PAY

30.1 The parties agree that incentive pay increments for various certifications and educational attainments shall continue to be included in hourly rates of pay, as per Article 29, Wages.

30.2 The City agrees to provide adequate on duty training to all members of the bargaining unit who operate motorized equipment.

30.3 The City agrees, for the duration of this Agreement, all members of the bargaining unit who are or become eligible for the educational incentive pay amounts established pursuant to "Florida Firefighter Standards and Training" in Florida Statutes, Chapter 633, will continue to receive such amounts.

30.4 All bargaining unit employees hired prior to October 1, 2021 holding a valid Paramedic certification shall receive $ .77/hour. The benefit of “patch pay” shall be eliminated once there are no existing employees utilizing this benefit.

30.5 Procedures for attaining Solo Paramedic status shall be established in accordance with the Department’s established policies and procedures. Once an employee is released by the medical director and Fire Chief to be a “solo status” paramedic, an incentive pay of $2.31 per hour will become effective. If a member loses the privilege to practice as a paramedic through discipline or action by the state this incentive pay shall be halted until the privilege is restored.

30.6 The City shall pay twenty-five dollars ($25.00) bi-weekly to any employee holding any two (2) of the below five (5) certifications/courses of study:

A. State of Florida Fire Officer II, III, or IV (only one (1) of the four (4) can be utilized)

B. State of Florida Fire Instructor I, II, or III (only one (1) of the three (3) can be utilized)

C. State of Florida Live Fire Instructor I or II (only one (1) of the two (2) can be utilized)

D. National Fire Academy Incident Safety Officer Certificate or equivalent approved by the Fire Chief

E. State of Florida Smoke Diver or equivalent approved by the Fire Chief.

ARTICLE 31 - HOURS OF WORK AND OVERTIME

31.1 The City shall establish a work period consisting of twenty-seven (27) days. Payment for overtime will be one and one-half (1-1/2) in excess of (200) hours of actual work in the twenty-seven (27) day work period as provided in the Fair Labor Standards Act. Fifty hours will constitute a normal workweek. The normal weekly wage for on-shift bargaining unit employees is derived by dividing the annual salary amount by two thousand six hundred (2,600) hours and multiplying by fifty (50). The City agrees to pay members of the bargaining unit at the rate of one and one-half (1-1/2) times the regular rate of pay for every hour worked outside of the normal twenty-seven (27) day work period schedule. It is understood that all time worked beyond the fifty (50) hour scheduled workweek will be at the rate of one and one-half (1-1/2) for overtime. Paid leave for vacation and witness duty for City purposes, will be counted as time worked for the purposes of computation of overtime. Sick leave, bereavement, short term military leave, and Jury Duty do not count as time worked for the purposes of computing overtime, unless issued mandatory overtime. Bargaining unit members called back to work from off duty shall be paid for all hours worked with a minimum of two (2) hours regardless of a lesser number of hours actually worked.

31.2 On-shift bargaining unit employees will work a week which averages fifty (50) hours per week running from Monday to Sunday. There will be a three (3) platoon system; twenty-four (24) hours on duty, twenty-four (24) off duty, commencing at 7:30 a.m. and ending at 7:30

a.m. the next morning, followed by twenty-four (24) hours off duty, cycled successively, until three (3) shifts have been worked. Thereafter, there will be a break of ninety-six (96) hours. All 27-day cycles will have nine (9) scheduled duty days.

31.3 The maximum number of on-shift Fire Department personnel allowed to be off at the same time is three (3); only two officers shall be allowed to take the same time off, unless approved by the Fire Chief or his designee. The maximum number of personnel allowed to be off on F.L.S.A. day is two (2).

31.4 It is understood and agreed, should there be a change in the Fair Labor Standards Act or circumstances adversely impacting the City, both sides shall meet and renegotiate a new work schedule.

31.5 Every attempt will be made to establish and post a monthly duty roster at least one week prior to the last scheduled shift of each month. Periodic breaks of ninety-six (96) consecutive hours will be taken off as scheduled, unless they are exchanged in accordance with Article 25, Shift Exchange. The same provisions will apply to time off and exchange of F.L.S.A. day.

31.6 Bargaining unit employees shall be required to return to work while off duty or to hold over on shift when deemed necessary by the City and the City has first attempted to procure a volunteer through the overtime list. Bargaining unit employees called back to work from off duty status or held over for less than one hour, shall be compensated for time worked rounded to the nearest five minutes and will have the pay added to their regular weekly paycheck for the week in which the overtime was worked.

31.8 On-shift bargaining unit employees will be granted one (1) F.L.S.A. day, also referred to as "Kelly" day, each 27-day cycle for a full year. On-shift bargaining unit employees

will select their F.L.S.A. days by December 31 of each year, starting with the most senior member and going down to the least senior member. This will enable us to maintain our two hundred (200) hours in the twenty-seven (27) day cycle. F.L.S.A. days may be changed or exchanged with more than forty-eight (48) hours of notice, unless it creates overtime, subject to approval of the Fire Chief or his/her designee. Criteria set forth under Shift Exchange, Article 25 shall be applied. F.L.S.A. day requests shall have priority over all other leaves.

31.9 On-shift bargaining unit employees will be granted time to rest during each twenty-four (24) hour work period requiring them remain available to respond to the needs of the department without delay. Normally, the hours to provide this rest time will be as follows: 4:30 p.m. to 7:00 a.m. on weekdays; 12:00 p.m. to 7:00 a.m. on Saturdays; and upon completion of routine duties, scheduled activities and prior authorization of the shift commander on Sundays and Holidays.

31.10 Overtime procedures for staffing and special events/activities shall be established in accordance with the Department's established policies and procedures.

ARTICLE 32 - JOB SECURITY

32.1 The city warrants that, for the life of this contract, there will be no transitioning (i.e. to the County or private services) of Fire Services.

ARTICLE 33 - BEREAVEMENT LEAVE

33.1 In the event of a death of a member of the bargaining unit employee's immediate family, a maximum of three (3) shifts off within seven (7) calendar days shall be granted following notification of death for attendance at the funeral. Extensions of the seven (7) calendar day time

frame will be at the discretion of the Fire Chief. In unusual cases, the Fire Chief, and/or designee, may approve additional time off utilizing sick and/or vacation leave.

33.2 The immediate family of the bargaining unit employee will be defined only as: spouse, mother, father, stepmother, stepfather, children, stepchildren, mother-in-law, father-in-law, sister-in-law, brother-in-law, brother, sister, employee's/spouse's grandparents or grandchildren. The death of relatives who functioned as part of the immediate family who resided in the member's household may qualify for bereavement leave, at the discretion of the Fire Chief.

33.3 A bargaining unit employee notified of death of a member of the immediate family during duty hours shall be granted leave for the duration of that shift. This leave will not be counted as Bereavement Leave in Article 33.1. Bereavement leave will start the following day.

ARTICLE 34 - JURY DUTY/VOTING

34.1 Any member of the bargaining unit ordered to report for jury duty shall be given sufficient time off with pay to carry out his/her civic responsibility. Before being relieved from his/her department duty, the employee will furnish official documentation of having been selected to serve. No deduction will be made by the City for any compensation for carrying out said jury duty or job-related deposition requirements.

34.2 Upon completion of jury duty or deposition schedule each day, the bargaining unit member shall report back to complete the scheduled shift.

34.3 Under special circumstances members of the bargaining unit who are registered to vote will be allowed sufficient time off via vacation leave to vote in local, state, and national elections, as long as level of service is maintained and there is no additional cost to the City. Notice to participate in the voting process shall be provided to the District Chief or his/her designee one (1) shift prior to Election Day.

34.4 Bargaining unit employees shall not be eligible for reimbursement by the City for any meals, lodging, travel or other expenses incurred while serving as a juror or to participate in the voting process.

ARTICLE 35 - VACATION

35.1 Vacation leave is a planned absence. Therefore, bargaining unit employees must request and have **prior** approval from their supervisor in order to take vacation. Supervisory approval of vacation requests shall be based on factors including, but not limited to operational needs, activities and workload, timeliness of request; available accrued vacation time, etc.

35.2 Shift employees are entitled to vacation with pay as follows:

Years of Service	# of Shifts
1 – 5	8
6 – 10	9
11 – 15	10
16 and over	12

35.3 Non-Shift employees are entitled to vacation with pay as follows:

Years of Service	Hours per Year
1 – 5	88
6 – 10	104
11 – 15	128
16 and over	152

First choice vacation requests for the year must be submitted to the Shift Commander by December 31, and run consecutively (they may include FLSA Days throughout). Vacation requests will be considered on the basis of seniority, consistent with the needs and requirements of the department.

35.4 Any other vacation requests during the year must be submitted in writing at least twenty-four (24) hours in advance, in increments of not less than two (2) hours based on a first come basis. The City will make every effort to meet the written request; however, the needs of the department will be given first consideration.

35.5 Vacation requests less than twenty-four (24) hours in advance may be granted by the District Chief on Duty, subject to the operational needs of the department at that time including but not limited to:

A. The bargaining unit employee reports to his/her duty station in uniform and ready to work;

B. One or more of the three (3) leave slots set forth in Article 31.2 are not being used for any part of the shift.

C. Does not result in a downgrade in the level of service from ALS to BLS.

D. Overtime is not created.

35.6 Maximum vacation time allowed to be taken at one time is one (1) year of accrual.

35.7 Bargaining unit employees who are separated in good standing from the City and who have accrued vacation to their credit at the time of separation shall be paid the hourly rate for the accrued shift days not to exceed two (2) year's accrual, provided the employees provides two (2) working weeks of advance written notice.

35.8 In the event of an employee's death, accrued vacation leave, if any, shall be paid at the hourly rate to his/her beneficiary or estate.

35.9 If a bargaining unit member becomes sick while on vacation, the time necessary to recover from the sickness will be charged to sick leave, not annual vacation, at the discretion of the Fire Chief, or his/her designee. The Fire Chief, or his/her designee, may request written explanation supporting his/her request to change to sick leave.

ARTICLE 36 - SICK LEAVE

36.1 On shift bargaining unit employees accrue sick leave at the rate of twelve (12) hours per calendar month. Non-shift bargaining unit members receive eight (8) hours per month. Accrual is unlimited.

36.2 Paid sick leave will be granted to bargaining unit members when they are ill, if there are sufficient hours of accrual available. Sick leave is a privilege which shall be primarily reserved for personal sickness. In the event the bargaining unit employee needs to care for a spouse or child, five (5) days per year may be used. Medical leaves qualified for Family Medical Leave may be granted under the City's policy and applicable Federal law. Additional time may be granted upon the approval of the Fire Chief.

36.3 Employees will notify their District Chief or designee at least one (1) hour before the start of their scheduled shift. Failure to provide sufficient notification shall result in disciplinary action.

36.4 A physician's note will be required of the employee in order to utilize sick leave to cover lost time from work if more than two (2) consecutive shifts, or if there is a pattern of abuse. Abuse of sick leave may be grounds for progressive discipline.

36.5 Bargaining unit employees shall have the option of participating in the City's Sick Leave Incentive Programs under the same terms as the City's general employees.

36.6 Sick leave will be paid, as follows, in the event of termination by:

1. **Resignation** Twenty-five percent (25%) of all accumulated unused sick leave at current hourly rate, up to a maximum of 720 hours with a minimum of five (5) years of continuous service with the City prior to resignation with a two (2) working weeks of advance written notice. Utilization of sick leave during the resignation notice period shall require a physician's note.

2. **Normal Retirement** (As defined in the Pension Plan Ordinance) – Bargaining unit employees hired prior to October 1, 2007 will receive one hundred percent (100%) of all accumulated sick leave, up to a maximum payment of one thousand seven hundred twenty-eight (1,728) hours. Employees hired October 1, 2007 or after shall receive 100% of all accumulated sick leave, up to a maximum of one thousand and eighty (1080) hours. Employees hired on or after August 1, 2013, shall receive 66 2/3% of the sick leave balance not to exceed seven hundred twenty (720) hours.

3. **Disability Retirement** (As defined in the Pension Plan Ordinance) - Same as normal retirement above.

4. **Death** - In the event of death, the bargaining unit employee's estate or beneficiary will be paid at the same rate as normal retirement.

36.7 For the purpose of computing sick leave of less than one (1) hour, increments of the nearest ten (10) minutes will be used.

ARTICLE 37 - HOLIDAYS

37.1 The following are recognized as holidays by the City:

1. New Year's Day (January 1)
2. Martin Luther King, Jr.'s Birthday (3rd Monday in January)
3. President's Day (Washington's Birthday) (3rd Monday of February)

4. Memorial Day (Last Monday of May)

5. Independence Day (July 4th)

6. Labor Day (1st Monday of September)

7. Veteran's Day

8. Thanksgiving Day (4th Thursday in November)

9. Day after Thanksgiving (4th Friday in November)

10. Christmas Day (25th Day in December)

11. Employee's Birthday – employee will take his birthday off within 30 days.

37.2 Bargaining unit employees on-shift will be paid in the September timeframe at the end of each fiscal year for the first ten above listed holidays at the employee's hourly rate of pay up to a maximum 100 hours. Bargaining unit employees who are working a modified shift (light duty) or workers compensation will receive time off with pay for the holiday. If a bargaining unit employee is not employed, is working a modified shift (light duty) or workers compensation, or is on leave of absence at a time of reimbursement, the employee's pay will reflect a percentage of the 100 hours pay (i.e., seven (7) holidays observed, seven-tenths (7/10) of 100 hours.

ARTICLE 38 - PERSONAL LEAVE, NON-PAID

38.1 The Fire Chief or his/her designee, with the concurrence of the City Manager, may allow each member of the bargaining unit up to six (6) shifts per year personal leave for reasons not covered by Articles in this Agreement. This time is non-paid and non-cumulative.

38.2 Due consideration will be given to requests for personal leave without pay in line with the requirements of the Department and budgetary impact

ARTICLE 39 - UNION BUSINESS

39.1 The Union shall notify the Fire Chief, in writing, of its designated Union officials. It shall be the responsibility of the Union to inform the Fire Chief, in writing, of any change of the designation of such officials. No Union official will be recognized by the City unless the Fire Chief receives written notification from the Union of his/her designation. One member of the bargaining unit elected or appointed to Union office may be afforded time off with pay to perform their Union functions subject to **prior** approval of the Fire Chief, or his/her designee. This will be limited to the President and/or his or her appointed designee. This would include attendance at regular or special meetings, which would involve the Fire Department, contract negotiations, and activities related to grievance handling without loss of pay or applicable benefits, as long as it does not interfere with the operations of the Fire Department or result in payment for overtime or working out of classification.

39.2 Two (2) members of the Union negotiating team may be allowed to attend meetings which shall be mutually set by the City and the Union without loss of pay or applicable benefits.

39.3 The President of the Union or his/her designee may be allowed time off with pay to attend any and all meetings of the City Council, as long as this does not interfere with the operations of the Fire Department or result in payment for overtime or working out of classification.

39.4 All provisions of this Article require the **prior** approval of the Fire Chief, or his/her designee.

39.5 Union business will be considered as one (1) of the three (3) leave slots, as outlined in Article 35.5.

39.6 The Union shall be provided 144 hours per fiscal year for union business annually for union business not specifically outlined above. Time off for pension related business will not be considered union business under this article. Such hours off need to be requested, in writing, to the Fire Chief in advance, like vacation time, and are subject to 39.5 above.

ARTICLE 40 - JOB-RELATED MEDICAL LEAVE OF ABSENCE

40.1 The City shall provide workers' compensation coverage for all bargaining unit employees, including probation employees, in accordance with Florida Statutes, Chapter 440.

40.2 All cases of accident or injury occurring on the job shall be reported immediately to supervision in accordance with statutory provisions and the provisions of the City of Cocoa Safety manual using the appropriate City forms.

40.3 Bargaining unit employees who sustains a compensable on-the-job injury and who is determined by competent medical authority to be temporarily, totally disabled from performing their duties shall receive workers' compensation wage benefits, as prescribed by law.

40.4 The City shall provide bargaining unit employees with paid injury leave equal to their regular weekly pay during the first seven (7) days from the date of the compensable on-the job injury. During the first two (2) months from the date of the compensable on-the-job injury, the City will supplement the workers' compensation wage benefit up to 100% of the bargaining unit employees' regular weekly gross wages. The City Manager may, at his discretion, extend the period of time that the City will supplement the workers' compensation wage benefit: the City Manager's decision in this regard shall not be grievable. After the first two (2) months from the date of the compensable on-the-job injury (or the period as extended by the City Manager), bargaining unit employees may supplement their workers' compensation wage benefits with their accumulated sick leave, compensation time and vacation leave, provided that the combined income

from their accumulated leave and their workers' compensation wage benefits do not exceed 100% of their regular weekly gross wages including all benefits and deductions.

40.5 Seniority will continue to accumulate during the period of absence due to a workers' compensation disability.

40.6 Injured bargaining unit employees may be required to be examined by a medical authority, provided by the City, who shall determine the employee's condition and fitness for return to full-time, part-time, and/or restricted duty.

40.7 Upon a bargaining unit member's return to duty from a job related injury or illness, all medical related appointments and/or treatments that occur during normal working hours shall be charged to unit member's accrued sick leave balance or other accrued leave if the paid workers' compensation leave has been exhausted. Bargaining unit members shall make every effort to schedule medical related appointments and/or treatments during non-working hours so as to minimize disruption to the operation.

40.8 In accordance with the provisions of the City's Return to Work Program, a bargaining unit employee will be returned to modified duty following an on-the-job accident, in his own department, and if no light duty exists there, then in any department within the City, based on medical verification of ability to perform the modified duty. Bargaining unit employees assigned to temporary modified duty as a result of a job-related injury shall have their hourly rate converted to a 40-hour equivalent while working a Monday through Friday modified work schedule. Any approved leave during the non-combat assignment shall be in accordance with the applicable leave Article(s) within this Agreement. Leave accruals should reflect a forty (40) hour work week while working a modified Monday through Friday schedule. The temporary light duty assignment shall not exceed 120 consecutive days.

ARTICLE 41 - PENSION

41.1 Retirement benefits and employee contributions for employees covered by this Agreement will be as provided in the City of Cocoa Firefighters' Retirement Plan (the "Plan"), except as provided below. All changes to the existing Plan will take effect on October 1, 2021 (the "effective date").

41.2 Plan benefits for credited service on and after the effective date will be the same as the Plan provisions in effect prior to the effective date, except as follows:

a. For employees hired after November 9, 2015, the normal retirement date will be the earlier of age 55 with 10 years of credited service or 25 years of credited service regardless of age, and separation from employment. For employees the normal retirement date shall be age 52 with 10 or more years of credited service or 25 years of credited service regardless of age.

b. Effective on and after the effective date, compensation for pension purposes shall be base pay including state funded incentives, holiday pay, driver and paramedic (solo or non-solo) pay, but excluding overtime in excess of one hundred (100) hours per fiscal year, payments for non-City events (special details), and payments for unused sick and annual leave; provided, payments of unused sick and annual leave shall be included for employees who were employed and not participating in the DROP on August 8, 2013, in an amount equal to the leave hours accrued on the August 8, 2013 or the amount paid out upon termination of employment, whichever is less.

c. For Members hired after the effective date, Average Final Compensation will be the five (5) highest of the last ten (10) years of credited service. Members hired

prior to the effective date shall continue the average of the highest three (3) consecutive years of the last ten (10) years of credited service.

41.3. The benefit changes in section 41.2 (with exception of 41.2(b)) above will not apply to any employee who has reached age 52 with 10 or more years of credited service or 25 years of credited service regardless of age on the effective date. Such employees will continue to accrue benefits in accordance with the Plan provisions in effect on the day before the effective date, for as long as they are employed by the City and eligible to accrue benefits under the Plan.

41.4 The parties agree that all funds in the excess state monies reserve ($550,678.25 on 10/1/14) shall be applied to reduce the unfunded actuarial accrued liability of the Plan. In addition, the parties agree that all premium tax revenues received in the future pursuant to Chapter 175, Florida Statutes shall be applied to reduce the Unfunded Actuarial Accrued Liability to the Plan. The parties agree that the City will establish a defined contribution plan (share plan) as a component of the Plan in accordance with 2015 SB 172, but that the defined contribution plan will not be funded at this time. At such time as the City and Union mutually agree to allocate ch. 175 premium tax revenues to the share plan, the parties will negotiate the details of the share plan.

41.5 Effective on and after the effective date, if the City's annual required contribution (ARC) increases five percent (5%) or greater from the amounts represented in the October 1, 2014 Actuarial Valuation Report for the Firefighters' Retirement Plan, or the unfunded actuarial accrued liability (UAAL) increases greater than twenty percent (20%), this Article will be automatically be reopened for negotiations. [City's annual required contribution for FY 2015-16 = $1,720,919; UAAL = $8,546,033]. For purpose of this section, any additional unfunded actuarial accrued liability will continue to be amortized as level payments over a period of twenty (20) years.

41.6 Upon ratification of this Agreement effective October 1, 2021, the Plan shall be amended by the City to provide for a service incurred disability retirement benefit equal to sixty (60%) of a member's average monthly salary if the disability occurs as a result of an active shooter event or mass killing.

ARTICLE 42 – EDUCATION/PARAMEDIC SCHOOL

42.1 Where bargaining unit employees are required by the Fire Chief to do training on off-duty time, they shall be compensated at the appropriate rate of pay for the time spent for the training, including travel time.

42.2 Education policies shall be established in accordance with City Policy.

42.3 New hires at time of hire that have obtained the State of Florida Certification as a Paramedic or current employees who obtain State of Florida Certification as a Paramedic upon ratification of this contract, will receive a one-time payment of $3,500 after being certified by the Medical Director as a solo-paramedic and completion of probation.

42.4 In the event the employee leaves employment within three (3) years of receiving the bonus, the payment will be repaid by the employee at one hundred percent (100%).

ARTICLE 43 – SENIORITY

Seniority as used in this Agreement shall be defined as the period of time employed within the classification (IE: Firefighter, Driver/Operator, Lieutenant). Exceptions to this application is for annual vacation request and FLSA request, which uses the date of hire for seniority application and Personnel Reduction (Article 47). Should more than one employee have the same seniority date, the first letter of their last name at the date of hire shall define seniority starting with the letter

"A" to "Z". Should more than one employee have the same first letter in the last name, the second letter shall define seniority, then the third, and so on and so on.

ARTICLE 44 - PHYSICAL FITNESS PROGRAM

44.1 Bargaining unit employees may participate in exercise or work out activities while on duty as approved by the Fire Chief or his designee. Any injuries sustained while on duty shall be considered job related injuries.

44.2 Employees are expected to remain at their daily assigned stations when participating in fitness activities. If for some reason there is a need to move to another location, prior authorization by the Fire Chief or his designee must be obtained. Approval shall be based on the needs and activities of the Department.

44.3 The City and Union will form a physical fitness committee, consisting of two (2) members from the Union appointed by the President and two (2) members from the City.

ARTICLE 45 - DRUGS AND ALCOHOL

45.1 The City and the Union mutually agree that the use of unlawful drugs, alcohol, and other illegal controlled substances constitutes a danger to the employee, fellow employees, and the general public. It is further agreed that the safety of public property and equipment is placed at jeopardy if an employee is under the influence of drugs and alcohol. The purpose of this Article is to:

A. Promote the goal of a drug-free workplace through fair and reasonable drug testing methods for protection of employees covered by this Agreement and the City.

B. Provide employees who have drug use problems with an opportunity to participate in an employee assistance program or an alcohol and drug rehabilitation program.

C. Provide for confidentiality of testing results.

45.2 Employees may request Union representation during any of the testing procedures.

ARTICLE 46 - MEDICAL REQUIREMENTS FOR FIRE FIGHTERS

46.1 To ensure bargaining unit employees are medically capable of performing their required duties and reduce the risk of injuries and illness, bargaining unit employees shall receive, at the City's expense, annual medical physicals, providing sufficient budget funds are available.

46.2 Bargaining unit employees shall be required to participate in Fit for Duty examinations. Additional tests and examinations including, physiological evaluations, may be included and required as deemed necessary by management or designated Fit-for-Duty physician.

46.3 Bargaining unit employees who do not meet the minimum requirements for medical certification, shall be managed by the City in accordance with applicable department, City, state and federal rules and regulations.

ARTICLE 47 - PERSONNEL REDUCTION

47.1 Reduction in force by layoff by job classification within the bargaining unit shall be in order of seniority, defined as the period of time employed within a classification, with the bargaining unit employee having the least seniority being laid off first. Should more than one employee have the same hire date, the first letter of their last name at the date of hire shall define seniority starting with the letter “A” to “Z”. Should more than one employee have the same first letter in the last name, the second letter shall define seniority, then the third, and so on and so on.

Layoff shall include the right of senior members of the bargaining unit in higher ranked positions to "bump" or roll back members of the bargaining unit in lower classifications and possessing less seniority. Recall shall be in reverse order of layoff and no new employees shall be hired until all members of the bargaining unit on layoff have been returned or given the opportunity to return to work.

47.2 Notice of recall shall be sent to the Union and the laid-off member of the bargaining unit at his/her last known address by certified mail, return receipt requested. If any member fails to respond to the recall notice within fourteen (14) calendar days from the date of receiving the notice of recall, he/she shall be considered terminated. Recall rights for any member of the bargaining unit shall expire eighteen (18) months from the date of layoff.

ARTICLE 48 - JOB DESCRIPTIONS

The members of the bargaining unit will perform duties as described in the Job Descriptions. (See Appendix A, B C, and D).

ARTICLE 49 - ENTIRE AGREEMENT

49.1 This Agreement constitutes the full and complete commitments between both parties and may be altered, changed, added to, deleted from or modified only through the mutual consent of the parties, in a written and signed amendment to this Agreement.

49.2 This Agreement shall supersede any conflicting or inconsistent rules, regulations or practices.

49.3 Any and all written agreements, letters of understanding, and/or memorandum of understanding entered into by the City and the Union prior to the effective date of this Agreement

shall be null and void unless specifically and expressly incorporated by written reference in this Agreement.

ARTICLE 50 - DURATION

50.1 This entire Agreement, unless specified within, shall become effective October 1, 2021 and remain in effect up to and including September 30, 2024

50.2 If either the City or the Union desires to modify, amend, or terminate this Agreement at its normal expiration date, other than as specified in Article 29 – Wages and Article 41 - Pension, official notice of such desire must be given in writing at least one hundred twenty (120) days prior to the expiration date of this Agreement. Such notice shall contain the Title(s) or the Article(s) the parties wish to add, alter, or amend. Only those Articles will be subject to negotiation.

50.3 Within thirty (30) days following receipt of such notice, unless there is mutual agreement to the contrary, the City and the Union shall commence negotiations.

APPENDIX A - JOB DESCRIPTION: FIREFIGHTER (EMT)

FIRE DEPARTMENT

GENERAL STATEMENT

Under minimal supervision, performs emergency response work in firefighting, emergency medical treatment and patient care, rescue, confined space entry, hazardous material response and other required service. Work involves performing fire prevention, fire suppression, emergency and non-emergency patient care, rescue and/or hazardous material response to alarms, and operating associated equipment and apparatus; and training in the methods and techniques of emergency response operations and patient care protocols and the use of all related equipment and apparatus. Employee is also responsible for inspecting and maintaining equipment and performing various maintenance and custodial duties at the assigned fire station. Employee is subject to the usual hazards of emergency response work. Reports to a Fire Lieutenant.

SPECIFIC DUTIES AND RESPONSIBILITIES

JOB FUNCTIONS

Responds to incidents requiring firefighting, patient care, rescue, hazardous material response or other service; may make initial determination of necessary personnel, equipment and suppression or containment tactics until relieved by superior officer. Advances hose lines into fire area; selects hose nozzle, depending on type of fire; lays and connects hoses; holds nozzle and directs stream of water onto fire; raises and climbs ladders; creates openings in buildings for ventilation or entrance using various hand and power tools; enters premises for firefighting, rescue, and salvage operations, uses chemical extinguishers, bars, hooks, lines and other equipment. Performs necessary patient care and/or rescue work in accordance with established protocols for Basic and enhanced Basic Life Support; administers necessary emergency medical care requiring the use of

suction units, immobilization equipment, and oxygen delivery systems and other approved equipment. Performs non-emergency related medical treatment for patients, i.e., lift assists, blood pressure checks, etc. Identifies hazardous materials and type of container or carrier at spill scene; performs fire suppression, pre-disaster, disaster and post-disaster activities, as necessary; assists in direction of evacuation operations, as necessary. Performs salvage operations such as placing salvage covers, sweeping water, removing debris and placing smoke ejectors. Performs fire and injury prevention activities. Prepares and completes reports. Inspects assigned emergency response apparatus and equipment daily for efficient operating condition and readiness; cleans and maintains equipment, as necessary, after completion of emergency response operations; performs repairs as appropriate. Attends and participates in training sessions on such topics related to as fire prevention, fire suppression, equipment, apparatus, techniques, patient care, hazardous materials, confined space, streets, hydrants, block numbers, buildings, etc. Aids citizens by assisting in delivery of directions, information, fire safety and other related program presentations to the community. Provides pertinent information to departmental personnel on following shift. Cleans and performs minor maintenance on department buildings, vehicles and equipment. Prepares pre-plans for buildings and facilities. Performs any and all job duties falling within the generic scope of fire/rescue services, including the participation in any public-service programs put on or sponsored by the City. May also be tasked with performing unrelated duties which are not inconsistent with the Collective Bargaining Agreement, on an occasional basis, where the need arises.

MINIMUM TRAINING AND EXPERIENCE

Graduation from high school, or GED.

SPECIAL REQUIREMENTS

Must hold Certificate of Compliance' as a firefighter from the Florida Bureau of Fire Standards. Must hold current Certification as an Emergency Medical Technician. Possession of a valid Florida driver's license**.**

PREFERRED REQUIREMENTS

State of Florida Certified Pump Operator

State of Florida Certified Fire Officer I

State of Florida Aerial Operations Course

MINIMUM QUALIFICATIONS OR STANDARDS REQUIRED

TO PERFORM ESSENTIAL JOB FUNCTIONS

Physical Requirements; Must be physically able to operate a variety of fire and emergency medical related apparatus and equipment, including such firefighting and emergency response equipment as pumps, ladders, aerial ladders, air compressors, self-contained breathing apparatus, extrication equipment ("jaws of life"), hand tools, electric tools, hydraulic tools, pneumatic tools, axes, shovels, two-way radios, etc. Has physical strength and agility to perform prolonged and arduous work under adverse conditions when required. Requires ability to ascend and descend ladders, stairs and ramps using feet or hands and arms. Requires ability to maintain body equilibrium to prevent falling when walking, standing, bending, stooping or crouching.

PERFORMANCE INDICATORS

Knowledge of Job: Has sufficient general knowledge of the operating characteristics and service requirements of equipment and apparatus used in firefighting, fire prevention, patient care, rescue operations and hazardous material response. Has sufficient knowledge of the hazards involved in emergency response operations and of the applicable safety precautions. Has sufficient knowledge

of basic emergency medical procedures and extrication techniques. Has sufficient knowledge of street layout, subdivisions, buildings, block numbers and the location of fire hydrants in the City. Has sufficient knowledge of departmental policies, procedures, standard operating procedures, rules and regulations and safety and health policies and procedures. Is able to operate and care for assigned emergency response apparatus and equipment. Is able to exercise initiative in meeting and resolving emergency situations. Is able to analyze situations quickly and correctly and adopt effective courses of action with regard to surroundings and circumstances. Is able to develop and maintain routine activity reports. Is able to effectively communicate orally and in writing. Is able to establish and maintain effective working relationships as necessitated by work assignments.

APPENDIX B - JOB DESCRIPTION: FIRE LIEUTENANT (EMT/PARAMEDIC)

FIRE DEPARTMENT

GENERAL STATEMENT OF JOB

Under minimal supervision, performs supervisory and skilled firefighting and emergency response work in directing and coordinating activities of a company of firefighters on an assigned shift. Work involves training, instructing and disciplining subordinates; determining proper deployment of equipment in emergency response situations; and ensuring the proper maintenance of apparatus and equipment. Employee is also responsible for commanding emergency response operations until relieved of command by a superior officer. Employee is subject to the usual hazards of emergency response work. Reports to a District Chief.

SPECIFIC DUTIES AND RESPONSIBILITIES

ESSENTIAL JOB FUNCTIONS

Responds to emergency response alarms, determining equipment and personnel to be deployed and providing input into determining the route to be taken by the fire company; directs work of firefighters pending arrival of a superior officer, supervising laying of hose lines, placement of ladders and apparatus, direction of streams of water, ventilation of buildings, rescue of persons and salvage operations. Performs necessary emergency rescue work and patient care in accordance with established protocols for Basic and enhanced Basic Life Support; administers necessary emergency medical care requiring the use of suction units, immobilization equipment, oxygen delivery systems and other approved equipment. Assigns, directs and supervises company of firefighters in daily station routine, ensuring adherence to applicable City and department policies and procedures and contract; assists and advises subordinates, as necessary, resolving problems as

non-routine situations arise; ensures that the routine schedule for the day is followed by all assigned personnel; defines priorities and makes work assignments.

Supervises and assist with cleaning, inspection and return of equipment to station after emergency response operations; supervises cleaning and maintenance of department buildings, vehicles and equipment, and assists in requisition and distribution of personal equipment, tools, clothing, etc.

Participates and conducts training of subordinate firefighters in various facets of emergency response, including firefighting, emergency rescue, patient care, confined space and hazardous material response methods and techniques; prepares pre-fire plans for buildings and facilities. Prepares and administers tests for subordinates. Performs inspections as required.

Evaluates firefighters' performances during emergency and non-emergency response operations; evaluates performance of equipment and apparatus before, during and after emergency response operations; prepares and maintains associated reports for superiors.

Supervises and participates in testing of apparatus and equipment to ensure proper operational capacity.

Prepares and maintains various activity logs and reports; performs duties of District Chief in his/her absence.

ADDITIONAL JOB FUNCTIONS

Aids citizens by assisting in delivery of directions, information, fire safety and other related program presentations to the community.

In the absence of a superior officer, conducts preliminary investigations into personnel accidents and equipment failures during emergency response operations; prepares reports and recommendations drawn from conclusions of such investigations, disciplines subordinates where necessary, including written and verbal reprimands. Recommends more severe disciplinary action

to superiors. Performs any and all job duties falling within the generic scope of fire/rescue services, including the participation in any public-service programs put on or sponsored by the City. May also be tasked with performing unrelated duties which are not inconsistent with the Collective Bargaining Agreement, on an occasional basis, when the need arises.

MINIMUM TRAINING AND EXPERIENCE

Graduation from high school or GED, Possession of a Certificate of Compliance as a firefighter from the Florida Bureau of Fire Standards and possess a current State of Florida EMT certification. And State of Florida Paramedic Certification with solo status if promoted after ratification of contract. Four (4) years of experience in firefighting and emergency response, with the City of Cocoa Fire Dept. Possession of a valid Florida's Driver's License. State of Florida Fire Officer I certification. Completion of Cocoa Fire Department Lieutenant class.

SPECIAL REQUIREMENTS

Must be on the current Driver/Operator List, once established.

PREFERRED TRAINING/EDUCATION REQUIREMENTS

Completion of State of Florida Fire Officer II certification and/or Associate's Degree in Fire Science or EMAS as recognized by the State of Florida for educational incentive pay (this will become a requirement in the future).

MINIMUM QUALIFICATIONS OR STANDARDS REQUIRED

TO PERFORM ESSENTIAL JOB FUNCTIONS

Physical Requirements: Must be physically able to operate a variety of fire and emergency medical related apparatus and equipment, including computers, typewriters, calculators, copiers, mechanic's tools and such firefighting and emergency response equipment as pumps, ladders, aerial ladders, air compressors, self-contained breathing apparatus, hand tools, electric tools,

hydraulic tools, pneumatic tools, axes, shovels, two-way radios, etc. Must be physically able to operate a motor vehicle. Has physical strength and agility to perform prolonged and arduous work under adverse conditions when required. Requires ability to ascend and descend ladders, stairs and ramps using feet or hands and arms. Requires ability to maintain body equilibrium to prevent falling when walking, standing, bending, stooping or crouching.

Cooperation: Accepts supervisory instruction and direction and strives to meet the goals and objectives of same. Offers suggestions and recommendations to encourage and improve cooperation between all staff persons within the department.

Delegating: Assigns additional duties to staff as necessary and/or appropriate in order to meet division goals, enhance staff abilities, build confidence on the job and assist staff members in personal growth. Has confidence in staff to meet new or additional expectations.

Policy Implementation: Has a clear and comprehensive understanding of all applicable laws and ordinances, as well as all applicable City and departmental policies, procedures, standard operating procedures, rules, regulations, and safety and health policies and procedures. Adheres to all applicable laws and ordinances, as well as all applicable City and departmental policies, procedures, standard operating procedures, rules, regulations, and safety and health policies and procedures, in the discharge of duties and responsibilities and ensures the same from subordinate staff.

PERFORMANCE INDICATORS

Knowledge of Job: Has considerable knowledge of the principles, methods and equipment used in firefighting, fire prevention, patient care, rescue operation, confined space and hazardous material response. Has considerable knowledge of applicable laws and ordinances and of applicable City and departmental policies, procedures, standard operating procedures, rules,

regulations, and safety and health policies and procedures. Has considerable knowledge of the operating characteristics and service requirements of firefighting equipment and apparatus. Has considerable knowledge of the hazards involved in emergency response operations and of the applicable safety precautions. Has considerable knowledge of street layout, block numbers, buildings and the locations of fire hydrants in the City. Has general knowledge of basic emergency medical procedures and techniques. Has satisfactory knowledge of modern techniques and methods of fire and emergency response administration with special attention to firefighting principles, practices, and procedures. Has sufficient knowledge of the principles and practices of municipal fire department organization and administration. Has sufficient knowledge of the current literature, trends and developments in the field of firefighting, patient care, emergency rescue, confined space and hazardous material response. Is able to plan, direct and coordinate the effective use of fire fighting and patient care equipment, apparatus and personnel. Is able to maintain discipline and respect of subordinates and to lead and command effectively. Is able to exercise initiative in meeting and resolving emergency situations. Is able to analyze situations quickly and correctly and adopt effective courses of action with regard to surroundings and circumstances. Is able to prepare and maintain routine work records and reports. Is able to train and instruct in modern firefighting and patient care principles, practices, and procedures. Is able to effectively express ideas orally and in writing. Is able to establish and maintain effective working relationships as necessitated by work assignments. Has physical strength and agility to perform prolonged and arduous work under adverse conditions when required.

APPENDIX C - JOB DESCRIPTION: FIREFIGHTER (PARAMEDIC)

FIRE DEPARTMENT

GENERAL STATEMENT

Under minimal supervision, performs emergency response work in firefighting, emergency medical treatment and patient care, rescue, confined space entry, hazardous material response and other required service. Work involves performing fire prevention, fire suppression, emergency and non-emergency patient care, rescue and/or hazardous material response to alarms, and operating associated equipment and apparatus; and training in the methods and techniques of emergency response operations and patient care protocols and the use of all related equipment and apparatus. Employee is also responsible for inspecting and maintaining equipment and performing various maintenance and custodial duties at the assigned fire station. Employee is subject to the usual hazards of emergency response work. Reports to a Fire Lieutenant.

SPECIFIC DUTIES AND RESPONSIBILITIES

JOB FUNCTIONS

Responds to incidents requiring firefighting, patient care, rescue, hazardous material response or other service; may make initial determination of necessary personnel, equipment and suppression or containment tactics until relieved by superior officer. Advances hose lines into fire area; selects hose nozzle, depending on type of fire; lays and connects hoses; holds nozzle and directs stream of water onto fire; raises and climbs ladders; creates openings in buildings for ventilation or entrance using various hand and power tools; enters premises for firefighting, rescue, and salvage operations, uses chemical extinguishers, bars, hooks, lines and other equipment. Performs necessary patient care and/or rescue work in accordance with established protocols for Basic and Advanced Life Support; administers necessary emergency medical care requiring the use of suction units, immobilization equipment, and oxygen delivery systems and other approved Advanced Life Support Equipment. Performs non-emergency related medical treatment for patients, i.e., lift assists, blood pressure checks, etc. Identifies hazardous materials and type of container or carrier at spill scene; performs fire suppression, pre-disaster, disaster and post-disaster activities, as necessary; assists in direction of evacuation operations, as necessary. Performs salvage operations such as placing salvage covers, sweeping water, removing debris and placing

smoke ejectors. Performs fire and injury prevention activities. Prepares and completes reports. Inspects assigned emergency response apparatus and equipment daily for efficient operating condition and readiness; cleans and maintains equipment, as necessary, after completion of emergency response operations; performs repairs as appropriate. Attends and participates in training sessions on such topics related to as fire prevention, fire suppression, equipment, apparatus, techniques, patient care, hazardous materials, confined space, streets, hydrants, block numbers, buildings, etc. Aids citizens by assisting in delivery of directions, information, fire safety and other related program presentations to the community. Provides pertinent information to departmental personnel on following shift. Cleans and performs minor maintenance on department buildings, vehicles and equipment. Prepares pre-plans for buildings and facilities. Performs any and all job duties falling within the generic scope of fire/rescue services, including the participation in any public-service programs put on or sponsored by the City. May also be tasked with performing unrelated duties which are not inconsistent with the Collective Bargaining Agreement, on an occasional basis, where the need arises.

MINIMUM TRAINING AND EXPERIENCE

Graduation from high school, or GED.

SPECIAL REQUIREMENTS

Must hold Certificate of Compliance' as a firefighter from the Florida Bureau of Fire Standards. Must hold current Certification as an State of Florida Paramedic (EMT-P),Current BLS, ACLS, PALS or Equivalent, BTLS or Equivalent. Possession of a valid Florida driver's license**.**

PREFERRED REQUIREMENTS

State of Florida Certified Pump Operator
State of Florida Certified Fire Officer I
State of Florida Aerial Operations Course

MINIMUM QUALIFICATIONS OR STANDARDS REQUIRED

TO PERFORM ESSENTIAL JOB FUNCTIONS

Physical Requirements; Must be physically able to operate a variety of fire and emergency medical related apparatus and equipment, including such firefighting and emergency response equipment as pumps, ladders, aerial ladders, air compressors, self-contained breathing apparatus, extrication tools ("jaws of life"), hand tools, electric tools, hydraulic tools, pneumatic tools, axes, shovels, two-way radios, etc. Is able to establish and maintain effective working relationships as necessitated by work assignments. Has physical strength and agility to perform prolonged and arduous work under adverse conditions when required. Requires ability to ascend and descend ladders, stairs and ramps using feet or hands and arms. Requires ability to maintain body equilibrium to prevent falling when walking, standing, bending, stooping or crouching.

PERFORMANCE INDICATORS

Knowledge of Job: Has sufficient general knowledge of the operating characteristics and service requirements of equipment and apparatus used in firefighting, fire prevention, patient care, rescue operations and hazardous material response. Has sufficient knowledge of the hazards involved in emergency response operations and of the applicable safety precautions. Has sufficient knowledge of Advanced Life Support (ALS) emergency medical procedures and extrication techniques. Has sufficient knowledge of street layout, subdivisions, buildings, block numbers and the location of fire hydrants in the City. Has sufficient knowledge of departmental policies, procedures, standard operating procedures, rules and regulations and safety and health policies and procedures. Is able to operate and care for assigned emergency response apparatus and equipment. Is able to exercise initiative in meeting and resolving emergency situations. Is able to analyze situations quickly and correctly and adopt effective courses of action with regard to surroundings and circumstances. Is able to develop and maintain routine activity reports. Is able to effectively communicate orally and in writing. Is able to establish and maintain effective working relationships as necessitated by work assignments. Has physical strength and agility to perform prolonged and arduous work under adverse conditions when required.

APPENDIX D - JOB DESCRIPTION: DRIVER/OPERATOR (EMT or PARAMEDIC)

FIRE DEPARTMENT

GENERAL STATEMENT

This is specialized work driving and operating heavy duty and/or specialized motorized vehicles for firefighting, rescue, or other fire department operations. Under minimal supervision, drives and operates associated equipment and apparatus; performs emergency response work in firefighting, emergency medical treatment and patient care, rescue, confined space entry, hazardous material response and other required service. Work involves performing fire prevention, fire suppression, emergency and non-emergency patient care, rescue and/or hazardous material response to alarms and training in the methods and techniques of emergency response operations and patient care protocols and the use of all related equipment and apparatus. Employee is also responsible for inspecting and maintaining equipment and performing various maintenance and custodial duties at the assigned fire station. Employee is subject to the usual hazards of emergency response work. Reports to a Fire Lieutenant.

SPECIFIC DUTIES AND RESPONSIBILITIES

JOB FUNCTIONS

Safely drives fire apparatus, vehicles, and crew to and from dispatched emergencies, operates pumps, elevating ladders, booms, and other equipment assigned or relative to apparatus. Safely drives and operates fire apparatus and vehicles in non-emergency situations. Makes pumper hook ups as necessary: maintains proper pressures on hose lines: checks motors and operating unit during operations, and makes necessary adjustments or changes. Cleans apparatus, tools, and equipment after use and assures everything is in proper working condition and returned to proper place. Responds to incidents requiring firefighting, patient care, rescue, hazardous material

response or other service; may make initial determination of necessary personnel, equipment and suppression or containment tactics until relieved by superior officer. Advances hose lines into fire area; selects hose nozzle, depending on type of fire; lays and connects hoses; holds nozzle and directs stream of water onto fire; raises and climbs ladders; creates openings in buildings for ventilation or entrance using various hand and power tools; enters premises for firefighting, rescue, and salvage operations, uses chemical extinguishers, bars, hooks, lines and other equipment. Performs necessary patient care and/or rescue work in accordance with established protocols and level of training (EMT or Paramedic); administers necessary emergency medical care requiring the use of suction units, immobilization equipment, and oxygen delivery systems and other approved equipment. Performs non-emergency related medical treatment for patients, i.e., lift assists, blood pressure checks, etc. Identifies hazardous materials and type of container or carrier at spill scene; performs fire suppression, pre-disaster, disaster and post-disaster activities, as necessary; assists in direction of evacuation operations, as necessary. Performs salvage operations such as placing salvage covers, sweeping water, removing debris and placing smoke ejectors. Performs fire and injury prevention activities. Prepares and completes reports. Inspects assigned emergency response apparatus and equipment daily for efficient operating condition (including warning lights, siren and related equipment) and readiness; cleans and maintains equipment, as necessary, after completion of emergency response operations; performs repairs as appropriate. Attends and participates in training sessions on such topics related to as fire prevention, fire suppression, equipment, apparatus, techniques, patient care, hazardous materials, confined space, streets, hydrants, block numbers, buildings, etc. Aids citizens by assisting in delivery of directions, information, fire safety and other related program presentations to the community. Provides pertinent information to departmental personnel on following shift. Cleans and performs minor

maintenance on department buildings, vehicles and equipment. Prepares pre-plans for buildings and facilities. Performs any and all job duties falling within the generic scope of fire/rescue services, including the participation in any public-service programs put on or sponsored by the City. May also be tasked with performing unrelated duties which are not inconsistent with the Collective Bargaining Agreement, on an occasional basis, where the need arises.

MINIMUM TRAINING AND EXPERIENCE

Graduation from high school, or GED.

Must hold Certificate of Compliance' as a firefighter from the Florida Bureau of Fire Standards.

Must hold current Certification as an Emergency Medical Technician and/or Paramedic

Two years of unbroken service as a firefighter in the Cocoa Fire Department

State of Florida Pump Operator Certification

Have successfully completed the Cocoa Fire Department Driver/Operator course

SPECIAL REQUIREMENTS

Possession of a valid Florida driver's license**.**

Current Emergency Vehicle Operator Certification (EVOC)

PREFERRED REQUIREMENTS

State of Florida Certified Fire Officer 1

State of Florida Aerial Operations Course

MINIMUM QUALIFICATIONS OR STANDARDS REQUIRED

TO PERFORM ESSENTIAL JOB FUNCTIONS

Physical Requirements; Must be physically able to operate a variety of fire and emergency medical related apparatus and equipment, including such firefighting and emergency response equipment as pumps, ladders, aerial ladders, air compressors, self-contained breathing apparatus, extrication equipment ("jaws of life"), hand tools, electric tools, hydraulic tools, pneumatic tools, axes, shovels, two-way radios, etc. Has physical strength and agility to perform prolonged and arduous work under adverse conditions when required. Requires ability to ascend and descend ladders, stairs and ramps using feet or hands and arms. Requires ability to maintain body equilibrium to prevent falling when walking, standing, bending, stooping or crouching.

PERFORMANCE INDICATORS

Knowledge of Job: Has sufficient general knowledge of the operating characteristics and service requirements of equipment and apparatus used in firefighting, fire prevention, patient care, rescue operations and hazardous material response. Sufficient knowledge in Fire Service Hydraulics and Aerial Operations. Has sufficient knowledge of the hazards involved in emergency response operations and of the applicable safety precautions. Has sufficient knowledge emergency medical procedures and extrication techniques. Has sufficient knowledge of street layout, subdivisions, buildings, block numbers and the location of fire hydrants in the City. Stays informed about sprinkler and standpipe connections in the City. Has sufficient knowledge of departmental policies, procedures, standard operating procedures, rules and regulations and safety and health policies and procedures. Is able to operate and care for assigned emergency response apparatus and equipment. Is able to exercise initiative in meeting and resolving emergency situations. Is able to analyze situations quickly and correctly and adopt effective courses of action with regard

to surroundings and circumstances. Is able to develop and maintain routine activity reports. Is able to effectively communicate orally and in writing. Is able to establish and maintain effective working relationships as necessitated by work assignments.

APPENDIX E - GRIEVANCE FORM
CITY OF COCOA/IAFF

Name: (Print)	
Job Title:	**Emp. ID #:**
Date of Alleged Violation:	
Policy/Section and/or Contract/Article Violated:	
Provide a Brief Description of the Grievance:	
Your Suggested Remedy:	
Grievant's Signature:	**Date:**
Union Rep's Signature:	**Date:**

Note: Prior to filing a written grievance, the Union and the aggrieved employees shall discuss verbally with management, the incident or the occurrence that gave rise to the grievance.

STEP 1 – Fire Chief: (Stamp received and give copy to the grievant or Union Rep.)	
Signature of Receiving Party:	**Date:**
STEP 2 – City Manager (Stamp received and give copy to the grievant or Union Rep.):	
Signature of Receiving Party:	**Date:**
Referred to Arbitration (Stamp received and give copy to the grievant or Union Rep.):	
Signature of Receiving Party:	**Date:**

SIGNATURE PAGE

CITY OF COCOA, FLORIDA

Michael Blake
Mayor

Stockton Whitten
City Manager

9-14-2021
Date

INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 2416

Brian Ackerman
President

Alex Candelario
Vice-President

9/29/21
Date

ATTEST:

Carie Shealy
City Clerk

Date: 9-14-2021

CITY OF COCOA SEAL

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF COCOA
AND
INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 2416

This is an agreement between the City of Cocoa, hereinafter referred to as City, and the International Association of Firefighters, Local 2416, hereinafter referred to as IAFF.

In accordance with Article 4.1, this agreement is intended to document the City's and IAFF's mutual agreement to amend Article 28 Insurance of the Collective Bargaining Agreement between the City and IAFF dated October 1, 2021 through September 30, 2024 as stated below (underlined type are additions and ~~strikeout~~ type are deletions to the CBA).

The City and IAFF agree to the following:

Article 28 - Insurance

28.1 The City will pay one hundred percent (100%) of the cost of the member's plan premiums, (up to the cost of the Core Plan), and fifty percent (50%) of the cost of the Core Plan for dependent premiums or other costs, providing sufficient revenues permit. For Fiscal Year 2023, the City and employees will share the premium increase of 9.2% and not follow the 50% of dependent premium split.

28.2 The City will pay one hundred percent (100%) of the cost of member's long-term disability coverage.

28.3 Health and hospitalization benefits for future retirees will be provided in accordance with City Resolution 95-27 and Resolution 2008-133, as may be amended by City Council.

28.4 The Union will be allowed to have a representative on any Advisory Committee formed to review Health and Hospitalization Insurance.

28.5 The City will provide group health insurance to bargaining unit employees on the same basis as such is provided to other City employees. No changes shall be made to existing benefits and/or premiums without first providing the Union with thirty (30) days of notice of any proposed changes. Bargaining unit employees shall also be able to participate in the City's flexible spending plan on the same basis as other City employees.

Mutually agreed to on August 02, 2022

Signed: _____ IAFF

Signed: _____ City of Cocoa

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.

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.

FY 2022 EXPENSE BUDGET TRACKING WORKSHEET

EXPENSE TRANSFER/AMENDMENT DETAIL
AS OF: 7/31/2022

Date	Accounts	Transaction	Resolution # / Description of Transfer or Amendment		Group #
1100 - CITY MANAGER'S OFFICE					
07/01/22	001-1100-512.48-00	(400)	FND MONITOR W/ THINCLIENT JUNE CLEANUP		3872
	001-1100-512.56-15	400			
1	Budget Amendments/Transfers		Division 1100 Total	$0	
1105 - ECONOMIC DEVELOPMENT					
07/01/22	001-1105-559.12-00	(3,000)	FUND EDC INV FOR FY22 JUNE CLEANUP		3872
	001-1105-559.54-00	3,000			
1	Budget Amendments/Transfers		Division 1105 Total	$0	
1190 - LEISURE SERVICES					
07/01/22	001-1190-574.52-00	(300)	RECLASS JANITORIAL SUPPL JUNE CLEANUP		3872
	001-1190-574.52-07	300			
1	Budget Amendments/Transfers		Division 1190 Total	$0	
1600 - GENERAL OPERATIONS					
07/01/22	001-1600-513.31-00	(7,000)	FND EXEC PD TRAINING JUNE CLEANUP		3872
	001-1600-513.55-00	7,000			
07/12/22	001-1600-513.39-00	(55,000)	FIRE ENGINE REPAIRS RESO # 2022-062		3777
	001-1600-513.39-00	(33,693)	FMIT RENEWAL FINAL INV RESO # 2022-061		3778
	001-1600-513.45-00	33,693			
3	Budget Amendments/Transfers		Division 1600 Total	($55,000)	
2100 - POLICE ADMIN/OPERATIONS					
07/01/22	001-2100-521.52-07	1,500	FND VARR ST JANIT SUPPLY JUNE CLEANUP		3872
1	Budget Amendments/Transfers		Division 2100 Total	$1,500	
2132 - CODE ENFORCEMENT					
07/01/22	001-2132-524.45-00	(1,000)	FND VARR ST JANIT SUPPLY JUNE CLEANUP		3872
	001-2132-524.46-03	(500)			
1	Budget Amendments/Transfers		Division 2132 Total	($1,500)	
2200 - FIRE ADMINISTRATION					
07/01/22	001-2200-522.40-00	(1,800)	FND FUEL EXPENSES JUNE CLEANUP		3872
	001-2200-522.52-30	1,800			

Date	Accounts	Transaction	Resolution # / Description of Transfer or Amendment		Group #
1 Budget Amendments/Transfers			Division 2200 Total	$0	
2201 - FIRE OPERATIONS					
07/01/22	001-2201-522.55-00	(19,000)	FND TRUCK ENG REPAIR JUNE CLEANUP		3872
	001-2201-522.52-00	(11,108)			
	001-2201-522.46-03	30,108			
07/12/22	001-2201-522.46-03	55,000	FIRE ENGINE REPAIRS RESO # 2022-062		3777
2 Budget Amendments/Transfers			Division 2201 Total	$55,000	
3200 - ADMINISTRATION					
07/01/22	001-3200-515.42-00	(610)	FND NEGATIVE BALANCE JUNE CLEANUP		3872
	001-3200-515.51-00	(610)			
	001-3200-515.52-00	100			
	001-3200-515.46-03	520			
	001-3200-515.41-00	600			
07/26/22	001-3200-515.31-16	50,000	PRESV GRANT - AAH MUSEUM RESO # 2022-073		3989
2 Budget Amendments/Transfers			Division 3200 Total	$50,000	
3510 - STREET MANAGEMENT					
07/01/22	001-3510-541.52-00	(127)	CDL REIMB ACCT CORR JUNE CLEANUP		3872
	001-3510-541.49-00	127			
07/12/22	001-3510-541.63-00	14,495	FDOT SIDEWALK & CURB IMP RESO # 2022-066		3782
07/26/22	001-3510-541.46-00	(36,684)	FND REC SVC FISKE/BROADMO RESO # 2022-072		3991
	001-3510-541.31-00	36,684			
3 Budget Amendments/Transfers			Division 3510 Total	$14,495	
16 Total Budget Amendments/Transfers			**GENERAL FUND**	**$64,495**	
3240 - HOUSING GRANTS					
07/12/22	103-3240-554.83-13	4,000	REHAB @ 1113 ABINGTON ST RESO # 2022-065		3781
1 Budget Amendments/Transfers			Division 3240 Total	$4,000	
1 Total Budget Amendments/Transfers			**CDBG**	**$4,000**	
3240 - HOUSING GRANTS					
07/26/22	105-3240-554.83-00	4,310	ADDTL SHIP FNDS TO REHABS RESO # 2022-071		3990
	105-3240-554.83-00	(266)	OVERSTATED PROJECTIONS RESO # 2022-071		3990
2 Budget Amendments/Transfers			Division 3240 Total	$4,044	
2 Total Budget Amendments/Transfers			**SHIP/COCOA HOUSING TRUST**	**$4,044**	
3200 - ADMINISTRATION					
07/01/22	107-3200-515.34-00	(3,000)	FND TRUCK BEDS FOR INSP JUNE CLEANUP		3872
	107-3200-515.46-03	3,000			
1 Budget Amendments/Transfers			Division 3200 Total	$0	

Date	Accounts	Transaction	Resolution # / Description of Transfer or Amendment		Group #
1 Total Budget Amendments/Transfers			**BUILDING PERMITS**	**$0**	
3230 - CRA ADMIN/OPERATIONS					
07/18/22	111-3230-559.39-00	(3,000)	SIGNS - VETERANS VILLAGE RESO # 22-403		3891
	111-3230-559.52-00	3,000			
1 Budget Amendments/Transfers			Division 3230 Total	$0	
1 Total Budget Amendments/Transfers			**CRA DIAMOND SQUARE 626**	**$0**	
1515 - UTILITY SUPPORT SERVICES					
07/01/22	421-1515-536.62-00	9,000	FND KIOSK AWNING JUNE CLEANUP		3872
	421-1515-536.52-00	(2,844)	FND NEW VEH ABV TTL LOSS JUNE CLEANUP		3872
	421-1515-536.64-00	2,844			
2 Budget Amendments/Transfers			Division 1515 Total	$9,000	
4010 - WATER ADMINISTRATION					
07/01/22	421-4010-536.31-00	(28,468)	FND TAYLOR CREEK PMT JUNE CLEANUP		3872
	421-4010-536.34-00	28,468			
07/12/22	421-4010-536.45-00	82,865	FMIT RENEWAL FINAL INV RESO # 2022-061		3784
2 Budget Amendments/Transfers			Division 4010 Total	$82,865	
4020 - DYAL PLANT					
07/01/22	421-4020-536.55-00	(3,500)	FND OFFICE SUPPLY TO YE JUNE CLEANUP		3872
	421-4020-536.51-00	3,500			
07/12/22	421-4020-536.46-00	(35,056)	ELEVATED TANK REPAIRS RESO # 2022-063		3779
	421-4020-536.31-03	35,056			
	421-4020-536.46-00	(100,000)	IT TOOLS & SCADA UPGRADES RESO # 2022-057		3775
	421-4020-536.52-00	100,000			
	421-4020-536.46-00	(115,164)	JACOBS ENG TASK #2 RESO # 2022-059		3774
	421-4020-536.31-03	115,164			
4 Budget Amendments/Transfers			Division 4020 Total	$0	
4055 - ENGINEERING					
07/01/22	421-4055-536.12-00	(9,000)	FND KIOSK AWNING JUNE CLEANUP		3872
07/12/22	421-4055-536.12-00	(82,865)	FMIT RENEWAL FINAL INV RESO # 2022-061		3784
2 Budget Amendments/Transfers			Division 4055 Total	($91,865)	
4120 - WATER RECLAMATION					
07/01/22	421-4120-536.64-15	(10,000)	FND FORD VAN PRICE INC JUNE CLEANUP		3872
	421-4120-536.46-03	(2,200)			
	421-4120-536.46-00	(2,000)			
	421-4120-536.64-00	14,200			
1 Budget Amendments/Transfers			Division 4120 Total	$0	

Date	Accounts	Transaction	Resolution # / Description of Transfer or Amendment		Group #
11 Total Budget Amendments/Transfers			**WATER/SEWER FUND**	**$0**	
3570 - STORMWATER UTILITY					
07/01/22	423-3570-538.23-04	(641)	FND FMIT BUDGET SHORTFALL JUNE CLEANUP		3872
	423-3570-538.45-00	641			
	423-3570-538.63-00	(250)	PT FOR CIPP RE-LINING JUNE CLEANUP		3872
	423-3570-538.63-00	250			
2 Budget Amendments/Transfers			Division 3570 Total	$0	
2 Total Budget Amendments/Transfers			**STORMWATER UTILITY**	**$0**	

34 Transfers & Amendments between 7/1/2022 and 7/31/2022

FY 2022 TOTAL TRANSFERS & AMENDMENTS **72,539**

NOTE: Group #s represent a complete transaction that will net to zero. Add all expenses for each group number, then subtract the revenues related to the same group number and your total will equal zero.

Legislation Details (With Text)

File #:	22-481	**Version:**	1	**Name:**	
Type:	Informational Item			**Status:**	Agenda Ready
File created:	8/10/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	In accordance with City Code, Section 2-74, at the beginning of each month during the fiscal year, the City Manager shall submit to City Council data showing the relation between the estimated and actual income and expenses to date. (Finance Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Budget Classification Report July 2022.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 10, 2022
Agenda Date: August 23, 2022
Prepared By: Colleen Campbell, MBA Senior Budget Analyst
Through: Rebecca Bowman, MBA, CGFO, CGFM Finance Director
Requested Action:
In accordance with City Code, Section 2-74, at the beginning of each month during the fiscal year, the City Manager shall submit to City Council data showing the relation between the estimated and actual income and expenses to date.

BACKGROUND:

The following reports for the period ending July 2022 (FY22) provide information for the three major funds: General Fund, Water/Sewer Fund, and the Storm Water Fund. This July 2022 (FY22) report is unaudited and preliminary.

Each of the major funds will have the following reports:

1. Budget by Account Classification Report
   Summary of the annual budget, revenues collected and expenditures by fund. The detailed back-up documentation is found in the Revenue Report and the Detailed Budget Report Summary by Object

2. Revenue Report
   Detail by account number of actual revenues collected vs. budget for the three major funds: General Fund, Water & Sewer, and Storm Water. This report shows the current period, the year to date totals, the annual budget and the unrealized balance.

- Estimated - represents either the current period or year to date prorated budget
- Actual - represents actual revenue received either in the current period or year to date
- % Rev - the percentage of actual revenue received vs. budget
- Annual Estimate - annual budget
- Unrealized Balance - annual estimate (budget less actual year to date received

3. Detail Budget Report Summary by Object
   Summary of expenditures by account description vs. budget for the three major funds: General Fund, Water & Sewer, and Storm Water. This report shows the current period, the year to date totals, encumbrances, the annual budget and the unencumbered balance.
   - Budget - represents either the current period or year to date prorated budget
   - Actual - represents actual cash expenditures either in the current period or year to date
   - % Exp. - the percentage of actual expenditures vs. budget
   - Encumbrance - encumbered amount
   - Annual Budget - annual budget
   - Unencumbered Balance - annual budget less actual year to date actual expenditures plus encumbrances
   - % Budgeted - the percentage of year to date actual expenditures plus encumbrances vs. budget

STRATEGIC PLAN CONNECTION:

Monthly reporting provides staff with an opportunity to monitor expenditure and revenue progression each month, to evaluate anomalies, and to determine corrective action (if necessary) for fiscal responsibility.

BUDGETARY IMPACT:

None

PREVIOUS ACTION:

None

RECOMMENDED MOTION:

Informational Item only.

FY 2022 Budget by Classification Report - Summary Listing

7/31/2022

Target for July 2022 is 83%

FUND 001 - GENERAL FUND

	Amended Budget	YTD Encumbrances	YTD Actual Transactions	Budget - YTD	% Used/Rec'd
REVENUE					
TAXES	$ 11,201,437		$ 10,521,081	$ 680,356	94%
OTHER PERMITS AND FEES	$ 4,659,809		$ 4,419,221	$ 240,588	95%
INTERGOVERNMENTAL	$ 3,019,811		$ 1,806,979	$ 1,212,832	60%
CHARGES FOR SERVICES	$ 13,768,336		$ 11,904,487	$ 1,863,849	86%
FINES AND FORFEITURES	$ 14,000		$ 38,682	$ (24,682)	276%
MISCELLANEOUS	$ 591,867		$ 405,496	$ 186,371	69%
OTHER SOURCES (NON-REVENUE)	$ 19,171,964		$ 9,132,573	$ 10,039,391	48%
REVENUE TOTALS	**$ 52,427,224**		**$ 38,228,518**	**$ 14,198,706**	**73%**
EXPENSE					
SALARIES AND BENEFITS	$ 26,410,580	$ 1,021	$ 19,241,462	$ 7,168,097	73%
OPERATING EXPENDITURES	$ 15,884,037	$ 1,766,709	$ 8,718,951	$ 5,398,377	66%
CAPITAL OUTLAY	$ 7,206,023	$ 1,863,895	$ 2,428,974	$ 2,913,154	60%
GRANTS, AIDS AND OTHER	$ 2,926,584	$ -	$ 3,311,166	$ (384,582)	113%
EXPENSE TOTALS	**$ 52,427,224**	**$ 3,631,624**	**$ 33,700,554**	**$ 15,095,046**	**71%**
REVENUE TOTALS	**$ 52,427,224**	**$ -**	**$ 38,228,518**	**$ 14,198,706**	**73%**
EXPENSE TOTALS	**$ 52,427,224**	**$ 3,631,624**	**$ 33,700,554**	**$ 15,095,046**	**71%**
	$ -	**$ (3,631,624)**	**$ 4,527,964**	**$ (896,340)**	

*Unaudited

CITY OF COCOA, FLORIDA

FUND 001 GENERAL FUND

ACCOUNT	ACCOUNT DESCRIPTION	CURRENT ESTIMATED	CURRENT ACTUAL	CURRENT %REV	YEAR-TO-DATE ESTIMATED	YEAR-TO-DATE ACTUAL	YEAR-TO-DATE %REV	ANNUAL ESTIMATE	UNREALIZED BALANCE
310	TAXES								
311	AD VALOREM								
10 00	CURRENT TAXES	115,429	59,783.09	52	7,649,355	7,374,128.26	96	7,649,355	275,226.74
20 00	DELINQUENT TAXES	5,000	131.22	3	5,000	1,326.00-	27	15,000	16,326.00
25 00	PENALTIES RE: TAXES	0	5,754.94		0	25,866.70		5,000	20,866.70-
30 00	TAX CERTIFICATES	0	.00		200,000	269,807.07	135	200,000	69,807.07-
311 **	AD VALOREM	120,429	65,669.25	55	7,854,355	7,668,476.03	98	7,869,355	200,878.97
312	SALES USE AND FUEL TAXES								
41 00	LOCAL OPTION GAS TAX 6 CT	50,000	69,950.82	140	500,000	550,784.64	110	600,000	49,215.36
312 **	SALES USE AND FUEL TAXES	50,000	69,950.82	140	500,000	550,784.64	110	600,000	49,215.36
314	UTILITY SERVICE TAX								
10 00	ELECTRICITY	125,000	125,710.44	101	1,250,000	1,262,123.36	101	1,500,000	237,876.64
30 00	WATER-COCOA	30,423	39,601.88	130	304,230	363,032.00	119	365,082	2,050.00
40 00	GAS	4,166	4,933.29	118	41,660	48,290.49	116	50,000	1,709.51
80 00	PROPANE	1,666	2,233.69	134	16,660	22,241.67	134	20,000	2,241.67-
314 **	UTILITY SERVICE TAX	161,255	172,479.30	107	1,612,550	1,695,687.52	105	1,935,082	239,394.48
315	COMMUNICATION SERVICE TAX								
00 00	COMMUNICATION SERVICE TAX	54,166	58,954.67	109	541,660	560,945.15	104	650,000	89,054.85
315 **	COMMUNICATION SERVICE TAX	54,166	58,954.67	109	541,660	560,945.15	104	650,000	89,054.85
316	LOCAL BUSINESS TAX								
00 00	LOCAL BUSINESS TAX	942	941.46	100	145,116	45,187.25	31	147,000	101,812.75
316 **	LOCAL BUSINESS TAX	942	941.46	100	145,116	45,187.25	31	147,000	101,812.75
310 ***	TAXES	386,792	367,995.50		10,653,681	10,521,080.59		11,201,437	680,356.41
320	OTHER PERMITS & FEES								
322	BUILDING PERMITS								
322 **	BUILDING PERMITS	0	.00		0	.00		0	.00
323	FRANCHISE FEES								
10 00	ELECTRICITY	100,000	126,289.89	126	1,000,000	931,781.42	93	1,200,000	268,218.58
40 00	GAS	6,250	8,186.25	131	62,500	77,285.51	124	75,000	2,285.51-
70 00	SOLID WASTE	23,116	23,790.50	103	231,160	234,617.51	102	277,402	42,784.49
323 **	FRANCHISE FEES	129,366	158,266.64	122	1,293,660	1,243,684.44	96	1,552,402	308,717.56
325	SPECIAL ASSESSMENT								
22 01	FIRE ASSESSMENT	0	.00		2,901,407	2,946,636.03	102	2,901,407	45,229.03-
22 02	F ASSMNT DELINQ TAXES	0	4,613.49		2,000	7,182.76	359	2,000	5,182.76-

CITY OF COCOA, FLORIDA

FUND 001 GENERAL FUND

ACCOUNT	ACCOUNT DESCRIPTION	CURRENT ESTIMATED	CURRENT ACTUAL	CURRENT %REV	YEAR-TO-DATE ESTIMATED	YEAR-TO-DATE ACTUAL	YEAR-TO-DATE %REV	ANNUAL ESTIMATE	UNREALIZED BALANCE
22 03	F ASSMNT PENALTIES	2,000	3,084.31	154	2,000	12,926.36	646	2,000	10,926.36-
22 04	F ASSMNT TAX CERTS	150,000	.00		150,000	151,607.75	101	150,000	1,607.75-
22 *	FIRE PROTECTION	152,000	7,697.80	5	3,055,407	3,118,352.90	102	3,055,407	62,945.90-
325 **	SPECIAL ASSESSMENT	152,000	7,697.80	5	3,055,407	3,118,352.90	102	3,055,407	62,945.90-
329	OTHER PERMITS & FEES								
10 01	FIRE INSPECTION FEES	2,500	19,145.00	766	5,000	23,180.00	464	10,000	13,180.00-
10 *	INSPECTION FEES	2,500	19,145.00	766	5,000	23,180.00	464	10,000	13,180.00-
25 00	PLANNING AND ZONING	3,500	1,945.00	56	35,000	34,003.64	97	42,000	7,996.36
35 00	FIRE INSPECTIONS	1,667-	14,840.00-		3,330	.00		0	.00
329 **	OTHER PERMITS & FEES	4,333	6,250.00	144	43,330	57,183.64	132	52,000	5,183.64-
320 ***	OTHER PERMITS & FEES	285,699	172,214.44		4,392,397	4,419,220.98		4,659,809	240,588.02
330	INTERGOVERNMENTAL REVENUE								
331	FEDERAL GRANTS								
20 01	RES OFFCR - CTY CONTRACT	46,500-	139,500.00-		46,500	.00		0	.00
20 15	VOCA-2021-COCOA PD	9,602	9,361.54	98	99,707	66,122.74	66	118,921	52,798.26
20 19	JAG 2020-DJ-BX-0410	0	.00		0	16,617.00-		0	16,617.00
20 21	BPV 2020 96472	1,135	.00		7,945	.00		10,219	10,219.00
20 22	JAG 21-GG-01363	1,545	.00		10,815	.00		13,902	13,902.00
20 23	BULLET PROOF VEST 2021	1,256	.00		10,799	.00		13,310	13,310.00
20 *	PUBLIC SAFETY	32,962-	130,138.46-		175,766	49,505.74	28	156,352	106,846.26
39 12	USDA/FOREST SVC 26866	0	.00		0	2,050.00-		0	2,050.00
39 *	OTHER PHYSCAL ENVIRONMENT	0	.00		0	2,050.00-		0	2,050.00
50 01	FEMA DISASTER RELIEF	0	81,577.51		0	81,577.51		0	81,577.51-
70 02	AFRICAN AM CIVIL RIGHTS	2,500	.00		25,000	.00		30,000	30,000.00
331 **	FEDERAL GRANTS	30,462-	48,560.95-		200,766	129,033.25	64	186,352	57,318.75
333	PAYMENT IN LIEU OF TAXES								
90 00	HOUSING AUTHORITY	4,333-	.00		8,668	.00		0	.00
333 **	PAYMENT IN LIEU OF TAXES	4,333-	.00		8,668	.00		0	.00
334	STATE GRANT								
50 01	STATE DISASTER REIMBURSE	0	4,571.45		0	4,571.45		0	4,571.45-
50 *	ECONOMIC ENVIRONMENT	0	4,571.45		0	4,571.45		0	4,571.45-

CITY OF COCOA, FLORIDA

FUND 001 GENERAL FUND

ACCOUNT	ACCOUNT DESCRIPTION	CURRENT ESTIMATED	CURRENT ACTUAL	CURRENT %REV	YEAR-TO-DATE ESTIMATED	YEAR-TO-DATE ACTUAL	YEAR-TO-DATE %REV	ANNUAL ESTIMATE	UNREALIZED BALANCE
70 09	HISTORICAL PRESERVATN	8,333	.00		8,333	.00		25,000	25,000.00
334 **	STATE GRANT	8,333	4,571.45	55	8,333	4,571.45	55	25,000	20,428.55
335	STATE SHARED REVENUES								
12 00	STATE REVENUE SHARING	46,083	53,644.40	116	460,830	483,814.49	105	553,000	69,185.51
12 20	8TH CNT MUNICIPAL GAS TAX	11,666	13,503.42	116	116,660	129,234.50	111	140,000	10,765.50
12 *	STATE REVENUE SHARING	57,749	67,147.82	116	577,490	613,048.99	106	693,000	79,951.01
14 00	MOBILE HOME LICENSES	2,000	4,741.87	237	20,000	24,486.91	122	24,000	486.91-
15 00	ALCOHOLIC BEVERAGE	416	.00		4,160	17,184.59	413	5,000	12,184.59-
18 00	LOCAL GOVERNMENT 1/2 CENT	101,666	118,114.68	116	1,016,660	1,036,971.68	102	1,220,000	183,028.32
21 00	FIREFIGHTER SUPPLEMENTAL	0	.00		11,250	7,997.50	71	15,000	7,002.50
29 21	POL PEN STATE CONTR	37,183	.00		111,549	.00		185,915	185,915.00
29 22	FIRE PEN STATE CONTR	22,485	.00		67,455	.00		112,427	112,427.00
29 *	OTHER PUBLIC SAFETY	59,668	.00		179,004	.00		298,342	298,342.00
41 00	FUEL TAX REFUNDS	2,083	.00		20,830	14,299.20	69	25,000	10,700.80
335 **	STATE SHARED REVENUES	223,582	190,004.37	85	1,829,394	1,713,988.87	94	2,280,342	566,353.13
337	GRANTS FROM LOCAL UNITS								
30 17	FIND BV-CO-20-147 DREDGIN	1,027	.00		7,189	20,755.85-	289	9,245	30,000.85
30 18	FIND BV-CO-20-146 BT RAMP	571	.00		3,997	19,858.30-	497	5,142	25,000.30
30 19	FIND BV-CO-21-152 DRG PII	22,584	.00		158,088	.00		203,255	203,255.00
30 20	FIND BV-CO-21-151 BT PII	34,497	.00		241,479	.00		310,475	310,475.00
30 *	PHYSICAL ENVIRONMENT	58,679	.00		410,753	40,614.15-	10	528,117	568,731.15
60 *	HUMAN SERVICES	0	.00		0	.00		0	.00
337 **	GRANTS FROM LOCAL UNITS	58,679	.00		410,753	40,614.15-	10	528,117	568,731.15
330 ***	INTERGOVERNMENTAL REVENUE	255,799	146,014.87		2,457,914	1,806,979.42		3,019,811	1,212,831.58
340	CHARGES FOR SERVICES								
341	GENERAL GOVERNMENT								
30 00	ADMINISTRATIVE FEES	580,580	580,580.00	100	5,805,800	5,805,800.00	100	6,966,971	1,161,171.00
31 00	ADMIN FEES STORMWATER	15,758	15,758.00	100	157,580	157,580.00	100	189,096	31,516.00
40 00	CERTIFY/COPY/SEARCH	9,166	11,872.51	130	91,660	115,898.33	126	110,000	5,898.33-
90 12	PASSPORT EXECUTION FEES	166	525.00	316	1,660	3,290.00	198	2,000	1,290.00-
341 **	GENERAL GOVERNMENT	605,670	608,735.51	101	6,056,700	6,082,568.33	100	7,268,067	1,185,498.67
342	PUBLIC SAFETY								

CITY OF COCOA, FLORIDA

FUND 001 GENERAL FUND

ACCOUNT	ACCOUNT DESCRIPTION	CURRENT ESTIMATED	CURRENT ACTUAL	CURRENT %REV	YEAR-TO-DATE ESTIMATED	YEAR-TO-DATE ACTUAL	YEAR-TO-DATE %REV	ANNUAL ESTIMATE	UNREALIZED BALANCE
10 00	SVC CHG - LAW ENF SERVICE	22,775	15,010.00	66	55,550	151,109.75	272	101,100	50,009.75-
10 02	SCHOOL RES OFFICER	46,500	139,500.00	300	93,000	139,500.00	150	186,000	46,500.00
10 *	SVC CHG - LAW ENF SERVICE	69,275	154,510.00	223	148,550	290,609.75	196	287,100	3,509.75-
20 00	SVC CHG - FIRE PROTECTION	0	6,625.00		0	28,453.17		0	28,453.17-
90 00	OTHER PUBLIC SAFETY	83	.00		830	100.00	12	1,000	900.00
90 01	FALSE ALARM FEES	708	.00		7,080	8,525.00	120	8,500	25.00-
90 *	OTHER PUBLIC SAFETY	791	.00		7,910	8,625.00	109	9,500	875.00
342 **	PUBLIC SAFETY	70,066	161,135.00	230	156,460	327,687.92	209	296,600	31,087.92-
343	PHYSICAL ENVIRONMENT								
37 10	BREVARD COUNTY	42,916	91,698.42	214	429,160	543,780.79	127	515,000	28,780.79-
37 11	ROCKLEDGE	25,000	25,794.99	103	250,000	256,690.15	103	300,000	43,309.85
37 12	SUN LAKE	333	340.80	102	3,330	3,369.78	101	4,000	630.22
37 13	CLNY PK-M.I.UTIL CO.	166	175.20	106	1,660	1,708.68	103	2,000	291.32
37 16	COCOA BEACH	9,833	9,873.12	100	98,330	98,315.33	100	118,000	19,684.67
37 17	CAPE CANAVERAL	8,083	8,073.27	100	80,830	80,622.27	100	97,000	16,377.73
37 18	TITUSVILLE	366	370.80	101	3,660	3,687.90	101	4,400	712.10
37 *	WATER BILLING SERVICES	86,697	136,326.60	157	866,970	988,174.90	114	1,040,400	52,225.10
39 01	SERVICE CHARGES	41,666	68,413.65	164	416,660	482,102.96	116	500,000	17,897.04
39 03	ADMIN CHARGES	33,416	55,080.00	165	334,160	504,205.00	151	401,000	103,205.00-
39 04	PENALTIES	65,804	62,688.13	95	658,040	609,712.50	93	789,650	179,937.50
39 05	NSF CHECKS	2,250	3,135.24	139	22,500	30,146.63	134	27,000	3,146.63-
39 13	HIGH CONSUMP CHGS	0	440.00		0	4,770.00		0	4,770.00-
39 *	WATER OTHER INCOME	143,136	189,757.02	133	1,431,360	1,630,937.09	114	1,717,650	86,712.91
41 10	SOLID WASTE	197,804	210,618.80	107	1,978,040	2,039,127.48	103	2,373,648	334,520.52
41 20	RECYCLING REVENUE	31,424	31,849.54	101	314,240	317,481.97	101	377,088	59,606.03
41 30	GREEN WASTE	35,025	35,499.57	101	350,250	353,742.24	101	420,300	66,557.76
41 *	GARBAGE COLLECTION	264,253	277,967.91	105	2,642,530	2,710,351.69	103	3,171,036	460,684.31
45 *	GARBAGE-OTHER REVENUE	0	.00		0	.00		0	.00
90 01	FDOT MEDIAN MAINT	0	.00		50,109	46,897.50	94	62,530	15,632.50
90 03	FDOT MNT SIGNAL/HWY LIGHT	19,752-	.00		81,588	15,632.50	19	115,753	100,120.50
90 *	OTHER PHYSICAL ENVIRON	19,752-	.00		131,697	62,530.00	48	178,283	115,753.00
343 **	PHYSICAL ENVIRONMENT	474,334	604,051.53	127	5,072,557	5,391,993.68	106	6,107,369	715,375.32

CITY OF COCOA, FLORIDA

FUND 001 GENERAL FUND

ACCOUNT		ACCOUNT DESCRIPTION	CURRENT ESTIMATED	CURRENT ACTUAL	CURRENT %REV	YEAR-TO-DATE ESTIMATED	YEAR-TO-DATE ACTUAL	YEAR-TO-DATE %REV	ANNUAL ESTIMATE	UNREALIZED BALANCE
347		CULTURE/RECREATION								
20	10	GAZEBO-PAVILLION RENTAL	0	54.00		0	1,246.00		0	1,246.00-
39	10	PORCHER HOUSE - REVENUES	2,500	2,150.00	86	25,000	18,732.34	75	30,000	11,267.66
39	11	TENANT MAINTENANCE FEES	108	97.56	90	1,080	1,073.16	99	1,300	226.84
39	20	COCOA CIVIC CENTER	2,083	1,610.00	77	20,830	24,830.55	119	25,000	169.45
39	30	RIVERFRONT PARK	1,666	2,130.00	128	16,660	10,491.06	63	20,000	9,508.94
39	*	OTHER CULTURAL SERVICES	6,357	5,987.56	94	63,570	55,127.11	87	76,300	21,172.89
40	05	SPECIAL EVENT PERMITS	1,250	9,000.00	720	12,500	36,150.00	289	15,000	21,150.00-
50	10	EVENT FEES	416	124.41	30	4,160	5,100.81	123	5,000	100.81-
50	50	MISC FURNISHINGS	0	.00		0	4,612.70		0	4,612.70-
50	*	SPECIAL REC FACILITIES	416	124.41	30	4,160	9,713.51	234	5,000	4,713.51-
347	**	CULTURE/RECREATION	8,023	15,165.97	189	80,230	102,236.62	127	96,300	5,936.62-
340	***	CHARGES FOR SERVICES	1,158,093	1,389,088.01		11,365,947	11,904,486.55		13,768,336	1,863,849.45
350		FINES AND FORFEITURES								
351		JUDGMENTS AND FINES								
90	00	OTHER	1,166	9,364.86	803	11,660	38,681.65	332	14,000	24,681.65-
351	**	JUDGMENTS AND FINES	1,166	9,364.86	803	11,660	38,681.65	332	14,000	24,681.65-
350	***	FINES AND FORFEITURES	1,166	9,364.86		11,660	38,681.65		14,000	24,681.65-
360		MISCELLANEOUS REVENUES								
361		INTEREST & OTHER EARNINGS								
10	00	INTEREST	5,000	10,948.08	219	50,000	125,416.39	251	60,000	65,416.39-
10	02	INVESTMENT INTEREST	11,666	9,037.27	78	116,660	31,502.87	27	140,000	108,497.13
10	10	SBA	66	791.83	1200	660	2,278.73	345	800	1,478.73-
10	11	INTEREST/CBOS	208	100.32	48	2,080	956.72	46	2,500	1,543.28
10	*	INTEREST	16,940	20,877.50	123	169,400	160,154.71	95	203,300	43,145.29
30	00	NET INC/DEC FMV INVESTMNT	0	85,707.93-		0	335,230.71-		0	335,230.71
40	00	GAIN/(LOSS) SALE INVEST	0	14,938.32-		0	16,547.94-		0	16,547.94
40	*	GAIN/(LOSS) SALE INVEST	0	14,938.32-		0	16,547.94-		0	16,547.94
361	**	INTEREST & OTHER EARNINGS	16,940	79,768.75-	471	169,400	191,623.94-	113	203,300	394,923.94
362		RENT AND ROYALTIES								
00	00	RENT AND ROYALTIES	9,951	12,546.66	126	135,581	126,101.58	93	156,583	30,481.42
39	10	PORCHER HOUSE	0	1,290.96		0	6,454.50		0	6,454.50-
39	20	CIVIC CENTER	0	660.00		0	3,300.00		0	3,300.00-
39	*	RENTALS AND LEASES	0	1,950.96		0	9,754.50		0	9,754.50-
362	**	RENT AND ROYALTIES	9,951	14,497.62	146	135,581	135,856.08	100	156,583	20,726.92

CITY OF COCOA, FLORIDA

FUND 001 GENERAL FUND

ACCOUNT	ACCOUNT DESCRIPTION	CURRENT ESTIMATED	CURRENT ACTUAL	CURRENT %REV	YEAR-TO-DATE ESTIMATED	YEAR-TO-DATE ACTUAL	YEAR-TO-DATE %REV	ANNUAL ESTIMATE	UNREALIZED BALANCE
364	DISPOSITION FIXED ASSETS								
10 00	GAIN/(LOSS)SALE OF F/A	0	.00		0	37,036.92		0	37,036.92-
364 **	DISPOSITION FIXED ASSETS	0	.00		0	37,036.92		0	37,036.92-
365	SALE SURPLUS MTRLS &SCRAP								
00 00	SALE SURPLUS MTRLS &SCRAP	0	.00		0	1,541.62		0	1,541.62-
365 **	SALE SURPLUS MTRLS &SCRAP	0	.00		0	1,541.62		0	1,541.62-
366	CONTRIBUTIONS & DONATIONS								
00 00	CONTRIBUTIONS & DONATIONS	10,884	.00		43,536	67,591.00	155	65,300	2,291.00-
10 10	CONTRIBS FOR K-9	237	.00		948	1,423.52	150	1,424	.48
10 *	DONATIONS-PRIVATE SOURCES	237	.00		948	1,423.52	150	1,424	.48
366 **	CONTRIBUTIONS & DONATIONS	11,121	.00		44,484	69,014.52	155	66,724	2,290.52-
368	PENSION CONTRIBUTIONS								
368 **	PENSION CONTRIBUTIONS	0	.00		0	.00		0	.00
369	OTHER MISC REVENUES								
90 00	OTHER MISC REVENUES	8,334-	10.22		16,660	177,691.21	1067	0	177,691.21-
90 02	POLICE SECURITY SERVICES	6,017-	.00		12,030	.00		0	.00
90 03	CODE ENF ABATE/DEMO REV	7,631	.00		76,310	100,237.66	131	91,575	8,662.66-
90 04	MISC. POLICE REVENUES	125	8.00	6	1,250	2,765.33	221	1,500	1,265.33-
90 05	INVESTIGATIVE COSTS REIM	4,533	4,338.04	96	45,330	45,617.80	101	54,400	8,782.20
90 09	PROPERTY REGISTRATION	625	.00		6,250	2,700.00	43	7,500	4,800.00
90 12	LEISURE SVCS -CANCEL FEES	0	.00		0	19.21		0	19.21-
90 *	OTHER MISC REVENUES	1,437-	4,356.26		157,830	329,031.21	209	154,975	174,056.21-
96 00	INSURANCE REFUND/PROCEEDS	2,571	155.00	6	5,142	24,639.89	479	10,285	14,354.89-
369 **	OTHER MISC REVENUES	1,134	4,511.26	398	162,972	353,671.10	217	165,260	188,411.10-
360 ***	MISCELLANEOUS REVENUES	39,146	60,759.87-		512,437	405,496.30		591,867	186,370.70
380	OTHER SOURCES(NON-REV)								
381	INTERFUND TRANSFER								
91 10	TRF FROM COCOA CRA (110)	116,865	12,500.00	11	1,168,650	1,377,380.00	118	1,402,380	25,000.00
91 12	TRF FROM US1 CRA (112)	1	.00		4	.00		5	5.00
91 20	TRF FROM DBT SVC (201)	0	2,917.41		0	2,917.41		0	2,917.41-
91 21	TRF FROM W/S FUND (421)	0	.00		0	418,716.13		0	418,716.13-
91 30	TRF FROM CAP PROJ (301)	86,535	.00		605,745	.00		778,819	778,819.00
91 *	TRANSFER FROM	203,401	15,417.41	8	1,774,399	1,799,013.54	101	2,181,204	382,190.46
381 **	INTERFUND TRANSFER	203,401	15,417.41	8	1,774,399	1,799,013.54	101	2,181,204	382,190.46

CITY OF COCOA, FLORIDA

FUND 001 GENERAL FUND

ACCOUNT	ACCOUNT DESCRIPTION	CURRENT ESTIMATED	CURRENT ACTUAL	CURRENT %REV	YEAR-TO-DATE ESTIMATED	YEAR-TO-DATE ACTUAL	YEAR-TO-DATE %REV	ANNUAL ESTIMATE	UNREALIZED BALANCE
382	CONTRIBUTIONS ENTERPRISE								
40 00	CONTRIBUTIONS (ROI)	603,112	603,112.92	100	6,031,120	6,031,129.20	100	7,237,355	1,206,225.80
40 01	6% PILOFF	130,242	130,243.00	100	1,302,420	1,302,430.00	100	1,562,914	260,484.00
40 *	CONTRIBUTIONS (ROI)	733,354	733,355.92	100	7,333,540	7,333,559.20	100	8,800,269	1,466,709.80
382 **	CONTRIBUTIONS ENTERPRISE	733,354	733,355.92	100	7,333,540	7,333,559.20	100	8,800,269	1,466,709.80
383	INSTLMT PURCH/CAP LEASE								
383 **	INSTLMT PURCH/CAP LEASE	0	.00		0	.00		0	.00
384	DEBT PROCEEDS								
384 **	DEBT PROCEEDS	0	.00		0	.00		0	.00
389	NON OPERATING SOURCES								
99 11	RESTR. CASH CARRY FORWARD	300	.00		3,000	.00		3,600	3,600.00
99 50	FUND BAL-APPROP. RESERVES	928,903	.00		6,282,952	.00		8,186,891	8,186,891.00
99 *	BALANCE FORWARD	929,203	.00		6,285,952	.00		8,190,491	8,190,491.00
389 **	NON OPERATING SOURCES	929,203	.00		6,285,952	.00		8,190,491	8,190,491.00
380 ***	OTHER SOURCES(NON-REV)	1,865,958	748,773.33		15,393,891	9,132,572.74		19,171,964	10,039,391.26
FUND TOTAL	GENERAL FUND	3,992,653	2,772,691.14		44,787,927	38,228,518.23		52,427,224	14,198,705.77
GRAND TOTAL		3,992,653	2,772,691.14		44,787,927	38,228,518.23		52,427,224	14,198,705.77

FUND 001 GENERAL FUND

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
11-00	EXECUTIVE SALARIES	54063	87087.05	161	741492	584227.01	79	.00	849660	265432.99	69
11 **	EXECUTIVE SALARIES	54063	87087.05	161	741492	584227.01	79	.00	849660	265432.99	69
12-00	REGULAR SALARIES & WAGES	1111705	1367366.27	123	11257663	9815519.33	87	.00	13481190	3665670.67	73
12-06	SALARIES/CONTRACTUAL	2083	21630.00	1038	20830	27027.00	130	.00	25000	2027.00-	108
12-07	EMS 1ST RESPONDER	0	.00	0	0	.00	0	.00	0	.00	0
12-09	SALARIES & WAGES CONTRA	0	.00	0	0	.00	0	.00	0	.00	0
12-10	SALARY ADJUSTMENTS	0	.00	0	0	.00	0	.00	0	.00	0
12-12	ACCRUAL PAYOUTS	17448	4994.51	29	104400	176572.05	169	.00	139297	37275.05-	127
12-13	COPS CHRP	0	.00	0	0	.00	0	.00	0	.00	0
12 **	REGULAR SALARIES & WAGES	1131236	1393990.78	123	11382893	10019118.38	88	.00	13645487	3626368.62	73
13-00	OTHER SALARIES & WAGES	101646	106368.80	105	779124	712277.29	91	.00	982476	270198.71	73
13 **	OTHER SALARIES & WAGES	101646	106368.80	105	779124	712277.29	91	.00	982476	270198.71	73
14-00	OVERTIME	37843	101149.76	267	378406	496737.68	131	.00	454195	42542.68-	109
14-01	COMP TIME	0	.00	0	0	.00	0	.00	0	.00	0
14-20	JAG COVID 2020-VD-BX-1270	0	.00	0	0	.00	0	.00	0	.00	0
14 **	OVERTIME	37843	101149.76	267	378406	496737.68	131	.00	454195	42542.68-	109
15-00	SPECIAL PAY	30707	48986.90	160	307070	336566.69	110	.00	368502	31935.31	91
15 **	SPECIAL PAY	30707	48986.90	160	307070	336566.69	110	.00	368502	31935.31	91
20-00	CLOTHING/SHOE ALLOWANCE	2016	.00	0	20040	15187.21	76	.00	24085	8897.79	63
20 **	CLOTHING/SHOE ALLOWANCE	2016	.00	0	20040	15187.21	76	.00	24085	8897.79	63
21-00	FICA TAXES	99276	131448.92	132	992760	913370.32	92	.00	1191443	278072.68	77
21 **	FICA TAXES	99276	131448.92	132	992760	913370.32	92	.00	1191443	278072.68	77
22-00	RETIREMENT CONTRIBUTIONS	82828	120685.08	146	836278	788243.34	94	.00	1002044	213800.66	79
22-01	FIRE PENSION	184289	231037.38	125	1842890	1684399.49	91	.00	2211478	527078.51	76
22-02	STATE CONTRIBUTIONS	20582	.00	0	257140	.00	0	.00	298342	298342.00	0

FUND 001 GENERAL FUND

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
22-03	NON FRS RETIREMENT CONT	3301	3766.54	114	25012	25596.04	102	.00	31618	6021.96	81
22 **	RETIREMENT CONTRIBUTIONS	291000	355489.00	122	2961320	2498238.87	84	.00	3543482	1045243.13	71
23-00	INSURANCES	6276	5940.52	95	60444	63974.14	106	.00	73087	9112.86	88
23-02	MEDICARE PART B	32096	42740.78	133	320960	321570.02	100	1020.60	385160	62569.38	84
23-03	CONTRA CIGNA SAVINGS	0	.00	0	0	.00	0	.00	0	.00	0
23-04	MEDICAL	277318	225565.67	81	2774794	2124213.03	77	.00	3329539	1205325.97	64
23-05	HEALTH GF RETIREES 50%	3687	3276.96	89	36870	33179.22	90	.00	44241	11061.78	75
23-06	HEALTH GF RETIREES 100%	25396	19656.86	77	253960	212134.16	84	.00	304761	92626.84	70
23-07	DENTAL INSURANCE	14332	11987.15	84	144022	114327.76	79	.00	172767	58439.24	66
23-08	VISION INSURANCE	2791	2768.02	99	27910	21633.38	78	.00	33594	11960.62	64
23-09	LONG TERM DISABILITY	4019	3952.24	98	40190	36957.54	92	.00	48321	11363.46	77
23-10	FSA HEALTH	0	.00	0	0	.00	0	.00	0	.00	0
23-11	FSA CHILDCARE	0	.00	0	0	.00	0	.00	0	.00	0
23 **	INSURANCES	365915	315888.20	86	3659150	2927989.25	80	1020.60	4391470	1462460.15	67
24-00	WORKER'S COMPENSATION	58362	70715.76	121	583620	565492.33	97	.00	700495	135002.67	81
24 **	WORKER'S COMPENSATION	58362	70715.76	121	583620	565492.33	97	.00	700495	135002.67	81
25-00	UNEMPLOYMENT COMPENSATION	833	.00	0	8330	6328.45	76	.00	10000	3671.55	63
25 **	UNEMPLOYMENT COMPENSATION	833	.00	0	8330	6328.45	76	.00	10000	3671.55	63
27-00	BENEFIT OFFSET	20770	18103.76	87	207740	165928.49	80	.00	249285	83356.51	67
27 **	BENEFIT OFFSET	20770	18103.76	87	207740	165928.49	80	.00	249285	83356.51	67
28-00	PERS SVC OVERHEAD ALLOC	0	.00	0	0	.00	0	.00	0	.00	0
28 **	PERS SVC OVERHEAD ALLOC	0	.00	0	0	.00	0	.00	0	.00	0
31-00	PROFESSIONAL SERVICES	52081	50973.68	98	375047	243270.38	65	186872.91	480507	50363.71	90
31-01	LEGAL EXPENSES	55193	42394.04	77	377082	336754.82	89	121438.18	487473	29280.00	94
31-02	MEDICAL SERVICES	4013	2083.94	52	40130	37078.08	92	4929.42	48160	6152.50	87

FUND 001 GENERAL FUND

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
31-03	ENGINEERING SERVICES	0	.00	0	0	.00	0	.00	0	.00	0
31-05	EMS 1ST RESPONDER	83	.00	0	13741	13905.00	101	.00	13905	.00	100
31-06	EDA-04-69-07348 GRANT	0	.00	0	0	.00	0	.00	0	.00	0
31-11	USDA MANAGE FOREST GRANT	0	.00	0	0	.00	0	.00	0	.00	0
31-13	FIND BV-C0-20-146 BT RAMP	571-	.00	0	1145	.00	0	.00	0	.00	0
31-14	FIND BV-CO-20-147 DREDGIN	1028-	.00	0	2050	.00	0	.00	0	.00	0
31-15	FIND BV-CO-21-152 DRG PII	2500	.00	0	25000	.00	0	.00	30000	30000.00	0
31-16	FIND BV-CO-21-151 BT PII	16667	.00	0	16667	.00	0	.00	50000	50000.00	0
31-33	EMPLOYEE HEALTH CENTER	17321	6356.07	37	173210	128556.11	74	79296.89	207853	.00	100
31 **	PROFESSIONAL SERVICES	146259	101807.73	70	1024072	759564.39	74	392537.40	1317898	165796.21	87
32-00	ACCOUNTING & AUDITING	6166	.00	0	61660	74000.00	120	.00	74000	.00	100
32 **	ACCOUNTING & AUDITING	6166	.00	0	61660	74000.00	120	.00	74000	.00	100
34-00	CONTRACT SERVICES	85812	60047.28	70	958565	738476.18	77	187463.66	1137694	211754.16	81
34-02	FDEP-RESILIENCY4190120	0	.00	0	0	.00	0	.00	0	.00	0
34-03	CUSTOMER SERVICE CONTRACT	231642	483249.04	209	2316420	2160144.48	93	.00	2779713	619568.52	78
34-07	JANITORIAL CONTRACT SVS	0	.00	0	0	.00	0	.00	0	.00	0
34-09	MOWING CONTRACTS	42183	36150.65	86	365621	294342.50	81	123892.00	450000	31765.50	93
34-10	COST OF GENERAL FUND SVCS	0	.00	0	0	.00	0	.00	0	.00	0
34 **	CONTRACT SERVICES	359637	579446.97	161	3640606	3192963.16	88	311355.66	4367407	863088.18	80
39-00	CONTINGENCY	20177-	.00	0	93994	.00	0	.00	53653	53653.00	0
39-01	EMS RESTRICTED	0	.00	0	0	.00	0	.00	0	.00	0
39-10	RESERVE CONTINGENCY	0	.00	0	0	.00	0	.00	0	.00	0
39-15	WAGE AND SALARY	4447	.00	0	35576	.00	0	.00	0	.00	0
39-20	FUEL, OIL & LUBRICANTS	0	.00	0	0	.00	0	.00	0	.00	0
39 **	CONTINGENCY	15730-	.00	0	129570	.00	0	.00	53653	53653.00	0

FUND 001 GENERAL FUND

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
40-00	TRAVEL & PER DIEM	8462	6817.29	81	90220	25389.10	28	.00	104868	79478.90	24
40-01	CAR ALLOWANCE	0	.00	0	0	.00	0	.00	0	.00	0
40-22	JAG-21-GG-01363	772	.00	0	5404	.00	0	.00	6951	6951.00	0
40 **	TRAVEL & PER DIEM	9234	6817.29	74	95624	25389.10	27	.00	111819	86429.90	23
41-00	COMMUNICATION	13650	18890.21	138	145869	124785.84	86	39040.26	176985	13158.90	93
41 **	COMMUNICATION	13650	18890.21	138	145869	124785.84	86	39040.26	176985	13158.90	93
42-00	POSTAGE & FREIGHT	37119	35686.98	96	374214	323124.99	86	89359.58	450936	38451.43	92
42 **	POSTAGE & FREIGHT	37119	35686.98	96	374214	323124.99	86	89359.58	450936	38451.43	92
43-00	ELECTRIC/WATER/SEWER	64210	62232.92	97	672818	509719.12	76	263618.73	796102	22764.15	97
43 **	ELECTRIC/WATER/SEWER	64210	62232.92	97	672818	509719.12	76	263618.73	796102	22764.15	97
44-00	RENTALS AND LEASES	13240	4476.48	34	123791	123479.03	100	16079.21	150298	10739.76	93
44 **	RENTALS AND LEASES	13240	4476.48	34	123791	123479.03	100	16079.21	150298	10739.76	93
45-00	INSURANCE	53368	.00	0	444404	548528.23	123	.00	551186	2657.77	100
45 **	INSURANCE	53368	.00	0	444404	548528.23	123	.00	551186	2657.77	100
46-00	REPAIRS & MAINTENANCE	59895	34524.26	58	661148	408157.27	62	161207.12	804395	235030.61	71
46-02	REPAIR/MAINT BUILDING	37495	37724.95	101	316428	140241.45	44	41980.85	364566	182343.70	50
46-03	REPAIR/MAINT-VEHICLES	48299	38441.56	80	315743	268694.49	85	72071.00	423076	82310.51	81
46-05	HYDRANT FEES	20016	20062.85	100	200160	200628.50	100	.00	240198	39569.50	84
46-15	INSURED VEHICLE ACCIDENT	0	.00	0	0	.00	0	.00	0	.00	0
46 **	REPAIRS & MAINTENANCE	165705	130753.62	79	1493479	1017721.71	68	275258.97	1832235	539254.32	71
47-00	PRINTING & BINDING	12549	15072.80	120	143026	104716.95	73	44475.92	172064	22871.13	87
47 **	PRINTING & BINDING	12549	15072.80	120	143026	104716.95	73	44475.92	172064	22871.13	87
48-00	PROMOTIONAL ACTIVITIES	4310	5380.75	125	63297	39629.40	63	500.00	71950	31820.60	56
48-11	BUSINESS ASSIST. PROGRAM	0	.00	0	0	.00	0	.00	0	.00	0
48 **	PROMOTIONAL ACTIVITIES	4310	5380.75	125	63297	39629.40	63	500.00	71950	31820.60	56

FUND 001 GENERAL FUND

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
49-00	OTHER CHARGES & OBLIG.	23317	2961.34	13	174316	143173.09	82	37758.58	227316	46384.33	80
49-02	ADVERTISING	211	.00	0	1867	.00	0	.00	2300	2300.00	0
49-05	BROWNFIELDS REDEV PROG	0	.00	0	0	.00	0	.00	0	.00	0
49-06	BROWNFIELD PROG CITY COST	416	.00	0	4160	2000.00	48	.00	5000	3000.00	40
49-07	BAD DEBT EXPENSE	0	4123.86-	0	0	49083.87-	0	.00	0	49083.87	0
49-08	CASH OVER/SHORT	0	.00	0	0	.00	0	.00	0	.00	0
49-15	OBSOLETE INVENTORY	0	.00	0	0	.00	0	.00	0	.00	0
49-17	DAMAGED INVENTORY	0	.00	0	0	.00	0	.00	0	.00	0
49-21	PD INVESTIGATIVE FUNDS	1110	.00	0	12768	14990.00	117	.00	15000	10.00	100
49-31	OVERHEAD ALLOCATION	0	.00	0	0	.00	0	.00	0	.00	0
49 **	OTHER CHARGES & OBLIG.	25054	1162.52-	5-	193111	111079.22	58	37758.58	249616	100778.20	60
51-00	OFFICE SUPPLIES	3575	809.06	23	37087	18409.02	50	.00	44369	25959.98	42
51 **	OFFICE SUPPLIES	3575	809.06	23	37087	18409.02	50	.00	44369	25959.98	42
52-00	OPERATING SUPPLIES	70954	39799.94	56	665281	632225.43	95	96935.79	866250	137088.78	84
52-02	UNIFORMS	7126	1157.55	16	71260	21203.81	30	31350.93	78474	25919.26	67
52-05	EMS 1st RESP-CONSUM SUPP	3863	4268.17	111	38630	37318.08	97	4339.78	46357	4699.14	90
52-07	JANITORIAL SUPPLIES	3998	1653.85	41	34687	24496.66	71	.00	43644	19147.34	56
52-10	HEATING FUEL	285	742.28	260	2850	2809.63	99	1617.37	3427	1000.00-	129
52-11	JAG GRANT	0	.00	0	0	.00	0	.00	0	.00	0
52-12	BULLETPROOF VEST GRANT	129-	.00	0	254	.00	0	.00	0	.00	0
52-13	VOCA GRANT	0	.00	0	0	.00	0	.00	0	.00	0
52-14	JAG 2020-DJ-BX-0410	0	.00	0	0	.00	0	.00	0	.00	0
52-22	BULLET PROOF V 2020	2271	.00	0	15897	12959.23	82	5777.77	20438	1701.00	92
52-23	BULLET PROOF VEST 2021	2512	.00	0	21598	.00	0	26620.00	26620	.00	100
52-30	FUEL, OIL, & LUBRICANTS	33179	34739.95	105	265443	249444.93	94	.00	334260	84815.07	75

FUND 001 GENERAL FUND

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
52-33	EMPLOYEE HEALTH CENTER	8379	913.58	11	83790	50144.46	60	50403.54	100548	.00	100
52 **	OPERATING SUPPLIES	132438	83275.32	63	1199690	1030602.23	86	217045.18	1520018	272370.59	82
53-00	ROAD MATERIALS/SUPPLIES	3181	3358.60	106	31810	24578.90	77	1312.17	38175	12283.93	68
53 **	ROAD MATERIALS/SUPPLIES	3181	3358.60	106	31810	24578.90	77	1312.17	38175	12283.93	68
54-00	MEMBERSHIP/PUBLICATIONS	6031	495.00	8	54682	50817.45	93	.00	66816	15998.55	76
54 **	MEMBERSHIP/PUBLICATIONS	6031	495.00	8	54682	50817.45	93	.00	66816	15998.55	76
55-00	TRAINING	7056	460.00	7	115029	64904.77	56	10250.00	132200	57045.23	57
55-01	EDA PROGRAM	833	.00	0	8330	2860.60	34	.00	10000	7139.40	29
55-22	JAG 21-GG-01363	772	1190.00	154	5404	1190.00	22	.00	6951	5761.00	17
55 **	TRAINING	8661	1650.00	19	128763	68955.37	54	10250.00	149151	69945.63	53
56-15	IT-RELATED OPERATING EXP	323900	31555.48	10	3017766	570887.35	19	68116.98	3689359	3050354.67	17
56-16	EMS DATA COLLECTION-BEMO	0	.00	0	0	.00	0	.00	0	.00	0
56 **	TECHNOLOGY SYSTEMS	323900	31555.48	10	3017766	570887.35	19	68116.98	3689359	3050354.67	17
57-99	OVERHEAD ALLOCATION	0	.00	0	0	.00	0	.00	0	.00	0
57 **	OVERHEAD ALLOCATION	0	.00	0	0	.00	0	.00	0	.00	0
58-97	LABOR	0	.00	0	0	.00	0	.00	0	.00	0
58-98	EQUIPMENT	0	.00	0	0	.00	0	.00	0	.00	0
58-99	OTHER CHARGES	0	.00	0	0	.00	0	.00	0	.00	0
58 **	WORK ORDER CHARGES	0	.00	0	0	.00	0	.00	0	.00	0
59-00	DEPRECIATION EXPENSE	0	.00	0	0	.00	0	.00	0	.00	0
59 **	DEPRECIATION EXPENSE	0	.00	0	0	.00	0	.00	0	.00	0
61-00	LAND	32877	.00	0	286518	458620.50	160	.00	352272	106348.50-	130
61 **	LAND	32877	.00	0	286518	458620.50	160	.00	352272	106348.50-	130
62-00	BUILDINGS	110553	24744.10	22	939925	147965.98	16	89921.95	1161036	923148.07	21
62-33	EMPLOYEE HEALTH CENTER	0	.00	0	0	.00	0	.00	0	.00	0

FUND 001 GENERAL FUND

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
62 **	BUILDINGS	110553	24744.10	22	939925	147965.98	16	89921.95	1161036	923148.07	21
63-00	INFRASTRUCTURE	394866	40809.30	10	1655202	586086.66	35	493542.99	2444945	1365315.35	44
63-04	FDOT LAP 2020-SIDEWALKS	0	.00	0	0	.00	0	.00	0	.00	0
63-07	IMPROVE OTHER THAN BLDG	0	.00	0	0	.00	0	.00	0	.00	0
63-13	FIND BV-CO-20-146 BT RAMP	1714	.00	0	6856	7949.25	116	1327.15	10284	1007.60	90
63-14	FIND BV-CO-20-147 DREDGIN	3082	.00	0	12328	6637.55	54	1598.75	18490	10253.70	45
63-15	FIND BV-CO-21-152 DRGPII	22584	25725.18	114	158088	121185.09	77	82069.91	203255	.00	100
63-16	FIND BV-CO-21-151 BT PII	29522	64542.06	219	251429	271986.90	108	38455.10	310475	33.00	100
63 **	INFRASTRUCTURE	451768	131076.54	29	2083903	993845.45	48	616993.90	2987449	1376609.65	54
64-00	MACHINERY AND EQUIPMENT	284727	294789.25	104	2106377	792822.70	38	1156979.27	2667178	717376.03	73
64-01	BC EMS GRANT 2020 AWARD	0	.00	0	0	.00	0	.00	0	.00	0
64-15	IT HARDWARE	3463	.00	0	31167	35719.31	115	.00	38088	2368.69	94
64-16	FIREHOUSE SUBS-EXTRAC EQ	0	.00	0	0	.00	0	.00	0	.00	0
64-33	EMPLOYEE HEALTH CENTER	0	.00	0	0	.00	0	.00	0	.00	0
64 **	MACHINERY AND EQUIPMENT	288190	294789.25	102	2137544	828542.01	39	1156979.27	2705266	719744.72	73
68-10	SFTWR & OTHER INTANGIBLES	0	.00	0	0	.00	0	.00	0	.00	0
68 **	INTANGIBLE ASSETS	0	.00	0	0	.00	0	.00	0	.00	0
71-00	DEBT SERVICE - PRINCIPAL	0	.00	0	0	.00	0	.00	0	.00	0
71 **	DEBT SERVICE - PRINCIPAL	0	.00	0	0	.00	0	.00	0	.00	0
72-00	DEBT SERVICE - INTEREST	0	.00	0	0	.00	0	.00	0	.00	0
72 **	DEBT SERVICE - INTEREST	0	.00	0	0	.00	0	.00	0	.00	0
73-00	OTHER DEBT SVC COSTS	0	.00	0	0	.00	0	.00	0	.00	0
73 **	OTHER DEBT SVC COSTS	0	.00	0	0	.00	0	.00	0	.00	0
81-00	AIDS TO GOVT AGENCY	0	.00	0	1139796	1085744.00	95	.00	1139796	54052.00	95
81 **	AIDS TO GOVT AGENCY	0	.00	0	1139796	1085744.00	95	.00	1139796	54052.00	95

FUND 001 GENERAL FUND

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
82-01	ECON DEV INCENTIVE CONTR	1666	.00	0	16660	20000.00	120	.00	20000	.00	100
82 **	AID PRIVATE ORGANIZATION	1666	.00	0	16660	20000.00	120	.00	20000	.00	100
83-00	OTHER GRANTS & AIDS	208	.00	0	2080	.00	0	.00	2500	2500.00	0
83-01	MISC GRANTS/DONATIONS	1266	.00	0	12660	.00	0	.00	15200	15200.00	0
83-10	CARES CRF #107-2020	0	.00	0	0	.00	0	.00	0	.00	0
83-11	UPSTART COCOA PROGRAM	0	.00	0	0	.00	0	.00	0	.00	0
83 **	OTHER GRANTS & AIDS	1474	.00	0	14740	.00	0	.00	17700	17700.00	0
91-03	TO CDBG (103)	0	.00	0	0	.00	0	.00	0	.00	0
91-04	TO HOME (104)	0	.00	0	0	.00	0	.00	0	.00	0
91-07	TO BLDG PERM(107)	0	382.82-	0	0	2140.09-	0	.00	0	2140.09	0
91-08	TO SEC 108 LOAN (108)	0	.00	0	0	.00	0	.00	0	.00	0
91-10	TO COCOA CRA (110)	0	.00	0	0	.00	0	.00	0	.00	0
91-11	TO DIAMOND SQ (111)	0	.00	0	0	.00	0	.00	0	.00	0
91-12	TO US 1 CRA (112)	0	.00	0	0	.00	0	.00	0	.00	0
91-20	TO GF DEBT SVC (201)	145757	145757.09	100	1457570	1457573.90	100	.00	1749088	291514.10	83
91-21	TO WATER SEWER (421)	0	40036.67	0	0	40036.67	0	.00	0	40036.67-	0
91-23	TO STORMWATER 423	0	.00	0	0	.00	0	.00	0	.00	0
91-25	TO RESTRICTED ASSET 425	0	1815695.90	0	0	1815695.90	0	.00	0	1815695.90-	0
91-26	TO W/S 2018B (426)	0	.00	0	0	.00	0	.00	0	.00	0
91-30	TO GF CAP PROJ (301)	0	.00	0	0	.00	0	.00	0	.00	0
91-32	TO RVRFRNT/LWP (302)	0	.00	0	0	.00	0	.00	0	.00	0
91-33	TO FISKE CAP PROJ (303)	0	.00	0	0	.00	0	.00	0	.00	0
91-52	TO W/C INS FUND (520)	0	.00	0	0	.00	0	.00	0	.00	0
91-53	TO HEALTH INS FUND (530)	0	.00	0	0	.00	0	.00	0	.00	0
91 **	INTERFUND TRANSFER	145757	2001106.84	1373	1457570	3311166.38	227	.00	1749088	1562078.38-	189

FUND 001 GENERAL FUND

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
FUND 001 TOTAL *********											
	GENERAL FUND	4598509	6161492.35	134	43173940	34806297.75	81	3631624.36	52427224	13989301.89	73
GRAND TOTAL *********											
		4598509	6161492.35	134	43173940	34806297.75	81	3631624.36	52427224	13989301.89	73

FY 2022 Budget by Classification Report - Summary Listing

7/31/2022

Target for July 2022 is 83%

FUND 421 - WATER/SEWER FUND

	Amended Budget	YTD Encumbrances	YTD Actual Transactions	Budget - YTD Transactions	% Used/Rec'd
REVENUE					
CHARGES FOR SERVICES	$ 69,083,674		$ 58,448,129	$ 10,635,545	85%
INTERGOVERNMENTAL/GRANTS	$ -		$ -	$ -	0%
MISCELLANEOUS	$ 214,444		$ (755,697)	$ 970,141	-352%
OTHER SOURCES (*NON-REVENUE)	$ 15,568,847		$ 6,129,482	$ 9,439,365	39%
REVENUE TOTALS	**$ 84,866,965**	**-**	**$ 63,821,913**	**$ 21,045,052**	**75%**
EXPENSE					
SALARIES AND BENEFITS	$ 19,646,288	$ -	$ 13,137,848	$ 6,508,440	67%
OPERATING EXPENDITURES	$ 31,620,169	$ 4,034,694	$ 19,294,628	$ 8,290,847	74%
CAPITAL OUTLAY	$ 9,933,849	$ 1,504,933	$ 488,196	$ 7,940,720	20%
GRANTS, AIDS AND OTHER	$ 23,666,659	$ -	$ 21,369,106	$ 2,297,553	90%
EXPENSE TOTALS	**$ 84,866,965**	**$ 5,539,627**	**$ 54,289,778**	**$ 25,037,560**	70%
REVENUE TOTALS	**$ 84,866,965**	**$ -**	**$ 63,821,913**	**$ 21,045,052**	**75%**
EXPENSE TOTALS	**$ 84,866,965**	**$ 5,539,627**	**$ 54,289,778**	**$ 25,037,560**	**70%**
**	**$ -**	**$ (5,539,627)**	**$ 9,532,136**	**$ (3,992,508)**	

*Includes adjustment in investments fair market value

**Unaudited

CITY OF COCOA, FLORIDA

FUND 421 WATER/SEWER FUND

ACCOUNT		ACCOUNT DESCRIPTION	CURRENT ESTIMATED	CURRENT ACTUAL	CURRENT %REV	YEAR-TO-DATE ESTIMATED	YEAR-TO-DATE ACTUAL	YEAR-TO-DATE %REV	ANNUAL ESTIMATE	UNREALIZED BALANCE
320		OTHER PERMITS & FEES								
324		IMPACT FEES								
03	*	IMPACT FEES - RETAIL BLDG	0	.00		0	.00		0	.00
324	**	IMPACT FEES	0	.00		0	.00		0	.00
320	***	OTHER PERMITS & FEES	0	.00		0	.00		0	.00
330		INTERGOVERNMENTAL REVENUE								
331		FEDERAL GRANTS								
331	**	FEDERAL GRANTS	0	.00		0	.00		0	.00
334		STATE GRANT								
334	**	STATE GRANT	0	.00		0	.00		0	.00
337		GRANTS FROM LOCAL UNITS								
337	**	GRANTS FROM LOCAL UNITS	0	.00		0	.00		0	.00
330	***	INTERGOVERNMENTAL REVENUE	0	.00		0	.00		0	.00
340		CHARGES FOR SERVICES								
343		PHYSICAL ENVIRONMENT								
31	00	WATER SALES	4,832,138	5,264,994.07	109	48,321,380	48,525,911.79	100	57,985,663	9,459,751.21
33	00	WATER CONNECTION FEE	44,592	24,963.80	56	445,920	682,685.98	153	535,105	147,580.98-
36	00	WATER HYDRANT FEES	314,823	319,115.60	101	3,148,230	3,176,172.18	101	3,777,881	601,708.82
39	06	HYDRANT RESID FLOW TEST	133	480.00	361	1,330	9,120.00	686	1,600	7,520.00-
39	07	BACKFLOW DEVICE TEST	12,083	18,500.89	153	120,830	117,616.18	97	145,000	27,383.82
39	08	JUMPER METERS	58	140.00	241	580	1,490.00	257	700	790.00-
39	09	PLAN REVIEW/CONST INSPECT	1,000	2,900.00	290	10,000	32,480.00	325	12,000	20,480.00-
39	10	BACKFLOW PRV/RLCT TEMP	41	75.42	184	410	1,874.20	457	500	1,374.20-
39	*	WATER OTHER INCOME	13,315	22,096.31	166	133,150	162,580.38	122	159,800	2,780.38-
51	00	SEWER SALES	518,281	594,404.77	115	5,182,810	5,555,022.40	107	6,219,374	664,351.60
51	*	SEWER SALES	518,281	594,404.77	115	5,182,810	5,555,022.40	107	6,219,374	664,351.60
53	02	SEWER CONN INDIAN HILLS	0	2,946.85		0	8,873.61		0	8,873.61-
59	01	GREASE TRAP PERMITS	516	728.36	141	5,160	7,184.52	139	6,200	984.52-
60	00	REUSE WATER SALES	32,720	37,285.49	114	327,200	323,031.03	99	392,651	69,619.97
60	01	REUSE WATER INSTALLATION	583	1,264.02	217	5,830	6,666.74	114	7,000	333.26
60	*	REUSE WATER SALES	33,303	38,549.51	116	333,030	329,697.77	99	399,651	69,953.23

CITY OF COCOA, FLORIDA

FUND 421 WATER/SEWER FUND

ACCOUNT		ACCOUNT DESCRIPTION	CURRENT ESTIMATED	CURRENT ACTUAL	CURRENT %REV	YEAR-TO-DATE ESTIMATED	YEAR-TO-DATE ACTUAL	YEAR-TO-DATE %REV	ANNUAL ESTIMATE	UNREALIZED BALANCE
343	**	PHYSICAL ENVIRONMENT	5,756,968	6,267,799.27	109	57,569,680	58,448,128.63	102	69,083,674	10,635,545.37
340	***	CHARGES FOR SERVICES	5,756,968	6,267,799.27		57,569,680	58,448,128.63		69,083,674	10,635,545.37
360		MISCELLANEOUS REVENUES								
361		INTEREST & OTHER EARNINGS								
10	00	INTEREST	0	7,922.98		0	276,422.85		0	276,422.85-
10	02	INVESTMENT INTEREST	10,747	49,442.84	460	107,470	143,995.40	134	128,964	15,031.40-
10	11	INTEREST/CBOS	0	.00		0	107.93		0	107.93-
10	*	INTEREST	10,747	57,365.82	534	107,470	420,526.18	391	128,964	291,562.18-
30	00	NET INC/DEC FMV INVESTMNT	0	281,121.65-		0	1,332,329.36-		0	1,332,329.36
40	00	GAIN/(LOSS) SALE INVEST	0	76,083.18-		0	83,681.28-		0	83,681.28
40	*	GAIN/(LOSS) SALE INVEST	0	76,083.18-		0	83,681.28-		0	83,681.28
361	**	INTEREST & OTHER EARNINGS	10,747	299,839.01-	2790	107,470	995,484.46-	926	128,964	1,124,448.46
362		RENT AND ROYALTIES								
00	00	RENT AND ROYALTIES	108	.00		1,080	.00		1,300	1,300.00
362	**	RENT AND ROYALTIES	108	.00		1,080	.00		1,300	1,300.00
364		DISPOSITION FIXED ASSETS								
10	00	GAIN/(LOSS)SALE OF F/A	829	.00		8,290	42,122.37	508	9,950	32,172.37-
364	**	DISPOSITION FIXED ASSETS	829	.00		8,290	42,122.37	508	9,950	32,172.37-
365		SALE SURPLUS MTRLS &SCRAP								
00	00	SALE SURPLUS MTRLS &SCRAP	250	.00		2,500	14,973.48	599	3,000	11,973.48-
365	**	SALE SURPLUS MTRLS &SCRAP	250	.00		2,500	14,973.48	599	3,000	11,973.48-
369		OTHER MISC REVENUES								
90	00	OTHER MISC REVENUES	4,064	731.50	18	40,640	159,782.86	393	48,778	111,004.86-
90	*	OTHER MISC REVENUES	4,064	731.50	18	40,640	159,782.86	393	48,778	111,004.86-
96	00	INSURANCE REFUND/PROCEEDS	2,495	.00		17,465	22,908.43	131	22,452	456.43-
369	**	OTHER MISC REVENUES	6,559	731.50	11	58,105	182,691.29	314	71,230	111,461.29-
360	***	MISCELLANEOUS REVENUES	18,493	299,107.51-		177,445	755,697.32-		214,444	970,141.32
380		OTHER SOURCES(NON-REV)								
381		INTERFUND TRANSFER								

CITY OF COCOA, FLORIDA

FUND 421 WATER/SEWER FUND

ACCOUNT		ACCOUNT DESCRIPTION	CURRENT ESTIMATED	CURRENT ACTUAL	CURRENT %REV	YEAR-TO-DATE ESTIMATED	YEAR-TO-DATE ACTUAL	YEAR-TO-DATE %REV	ANNUAL ESTIMATE	UNREALIZED BALANCE
91	01	GENERAL FUND (001)	0	40,036.67		0	40,036.67		0	40,036.67-
91	24	RENEW & REPLACE (424)	107,608	.00		860,864	1,076,077.00	125	1,076,077	.00
91	25	TRF FROM W/S REST (425)	0	4,687,366.14		0	4,746,098.63		0	4,746,098.63-
91	52	TRF FROM WORK COMP (520)	0	267,269.84		0	267,269.84		0	267,269.84-
91	*	TRANSFER FROM	107,608	4,994,672.65	4642	860,864	6,129,482.14	712	1,076,077	5,053,405.14-
381	**	INTERFUND TRANSFER	107,608	4,994,672.65	4642	860,864	6,129,482.14	712	1,076,077	5,053,405.14-
383		INSTLMT PURCH/CAP LEASE								
383	**	INSTLMT PURCH/CAP LEASE	0	.00		0	.00		0	.00
389		NON OPERATING SOURCES								
83	*	CAP CONTRIB VIERA	0	.00		0	.00		0	.00
99	50	FUND BAL-APPROP. RESERVES	1,332,507	.00		11,827,751	.00		14,492,770	14,492,770.00
99	*	BALANCE FORWARD	1,332,507	.00		11,827,751	.00		14,492,770	14,492,770.00
389	**	NON OPERATING SOURCES	1,332,507	.00		11,827,751	.00		14,492,770	14,492,770.00
380	***	OTHER SOURCES(NON-REV)	1,440,115	4,994,672.65		12,688,615	6,129,482.14		15,568,847	9,439,364.86
FUND TOTAL		WATER/SEWER FUND	7,215,576	10,963,364.41		70,435,740	63,821,913.45		84,866,965	21,045,051.55
GRAND TOTAL			7,215,576	10,963,364.41		70,435,740	63,821,913.45		84,866,965	21,045,051.55

FUND 421 WATER/SEWER FUND

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
11-00	EXECUTIVE SALARIES	13479	17134.13	127	134790	116023.66	86	.00	161758	45734.34	72
11 **	EXECUTIVE SALARIES	13479	17134.13	127	134790	116023.66	86	.00	161758	45734.34	72
12-00	REGULAR SALARIES & WAGES	950600	1082421.30	114	9825432	7601429.42	77	.00	11726678	4125248.58	65
12-10	SALARY ADJUSTMENTS	0	.00	0	0	.00	0	.00	0	.00	0
12-12	ACCRUAL PAYOUTS	6016	138.21	2	24064	58896.45	245	.00	36091	22805.45-	163
12 **	REGULAR SALARIES & WAGES	956616	1082559.51	113	9849496	7660325.87	78	.00	11762769	4102443.13	65
13-00	OTHER SALARIES & WAGES	49754	51794.45	104	497540	364416.97	73	.00	597082	232665.03	61
13 **	OTHER SALARIES & WAGES	49754	51794.45	104	497540	364416.97	73	.00	597082	232665.03	61
14-00	OVERTIME	54378	82845.82	152	543506	636732.70	117	.00	652294	15561.30	98
14-01	COMP TIME	0	.00	0	0	.00	0	.00	0	.00	0
14 **	OVERTIME	54378	82845.82	152	543506	636732.70	117	.00	652294	15561.30	98
15-00	SPECIAL PAY	1483	175.00	12	14530	1750.00	12	.00	17500	15750.00	10
15 **	SPECIAL PAY	1483	175.00	12	14530	1750.00	12	.00	17500	15750.00	10
20-00	CLOTHING/SHOE ALLOWANCE	1804	360.00	20	18040	19867.09	110	.00	21665	1797.91	92
20 **	CLOTHING/SHOE ALLOWANCE	1804	360.00	20	18040	19867.09	110	.00	21665	1797.91	92
21-00	FICA TAXES	70083	93553.86	134	700830	662135.24	95	.00	841032	178896.76	79
21 **	FICA TAXES	70083	93553.86	134	700830	662135.24	95	.00	841032	178896.76	79
22-00	RETIREMENT CONTRIBUTIONS	117401	157490.75	134	1182224	1219401.27	103	.00	1417043	197641.73	86
22-01	GASB 68 PENS EXP	0	.00	0	0	.00	0	.00	0	.00	0
22-03	NON FRS RETIREMENT CONT	1369	571.36	42	5476	7624.13	139	.00	8218	593.87	93
22 **	RETIREMENT CONTRIBUTIONS	118770	158062.11	133	1187700	1227025.40	103	.00	1425261	198235.60	86
23-00	INSURANCES	4340	4455.30	103	43400	43468.51	100	.00	52100	8631.49	83
23-02	RETIREES OTHER INSURANCES	11968	15212.82	127	119680	117886.55	99	.00	143620	25733.45	82
23-03	CONTRA CIGNA SAVINGS	0	.00	0	0	.00	0	.00	0	.00	0
23-04	MEDICAL	245581	175688.14	72	2455810	1603413.03	65	.00	2947000	1343586.97	54

FUND 421 WATER/SEWER FUND

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
23-05	HEALTH RETIREES 50%	818	819.24	100	8180	8192.40	100	.00	9832	1639.60	83
23-06	HEALTH RETIREES 100%	5734	4096.20	71	57340	42600.48	74	.00	68817	26216.52	62
23-07	DENTAL INSURANCE	11828	8523.49	72	118280	80005.13	68	.00	141961	61955.87	56
23-08	VISION INSURANCE	2300	1797.28	78	23000	15330.40	67	.00	27632	12301.60	56
23-09	LONG TERM DISABILITY	3024	2929.14	97	30240	27220.27	90	.00	36300	9079.73	75
23-10	FSA HEALTH	0	.00	0	0	.00	0	.00	0	.00	0
23-11	FSA CHILDCARE	0	.00	0	0	.00	0	.00	0	.00	0
23-99	OPEB HEALTH EXPENSE	0	.00	0	0	.00	0	.00	0	.00	0
23 **	INSURANCES	285593	213521.61	75	2855930	1938116.77	68	.00	3427262	1489145.23	57
24-00	WORKER'S COMPENSATION	45585	47349.80	104	455850	395183.80	87	.00	547065	151881.20	72
24 **	WORKER'S COMPENSATION	45585	47349.80	104	455850	395183.80	87	.00	547065	151881.20	72
25-00	UNEMPLOYMENT COMPENSATION	1845	.00	0	11305	7685.10	68	.00	15000	7314.90	51
25 **	UNEMPLOYMENT COMPENSATION	1845	.00	0	11305	7685.10	68	.00	15000	7314.90	51
26-00	OPEB HEALTH EXPENSE	0	.00	0	0	.00	0	.00	0	.00	0
26 **	OPEB HEALTH EXPENSE	0	.00	0	0	.00	0	.00	0	.00	0
27-00	BENEFIT OFFSET	14800	11400.00	77	148000	108585.80	73	.00	177600	69014.20	61
27 **	BENEFIT OFFSET	14800	11400.00	77	148000	108585.80	73	.00	177600	69014.20	61
31-00	PROFESSIONAL SERVICES	47086	28351.49	60	496174	127787.48	26	162832.71	590369	299748.81	49
31-01	LEGAL EXPENSES	39440	10063.24	26	390376	65953.74	17	83049.93	469258	320254.33	32
31-02	MEDICAL SERVICES	0	.00	0	0	.00	0	.00	0	.00	0
31-03	ENGINEERING SERVICES	191537	112954.55	59	1279794	1088490.86	85	548811.53	1662878	25575.61	99
31-33	EMPLOYEE HEALTH CENTER	12459	4571.91	37	124590	92470.17	74	57038.83	149509	.00	100
31 **	PROFESSIONAL SERVICES	290522	155941.19	54	2290934	1374702.25	60	851733.00	2872014	645578.75	78
32-00	ACCOUNTING & AUDITING	0	.00	0	0	.00	0	.00	0	.00	0
32 **	ACCOUNTING & AUDITING	0	.00	0	0	.00	0	.00	0	.00	0

FUND 421 WATER/SEWER FUND

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
34-00	CONTRACT SERVICES	129417	114576.30	89	1235953	1105778.77	90	230561.38	1471910	135569.85	91
34-09	MOWING CONTRACTS	0	.00	0	0	.00	0	.00	0	.00	0
34-10	COST OF GENERAL FUND SVCS	580580	580580.00	100	5805800	5805800.00	100	.00	6966971	1161171.00	83
34 **	CONTRACT SERVICES	709997	695156.30	98	7041753	6911578.77	98	230561.38	8438881	1296740.85	85
39-00	CONTINGENCY	12440-	.00	0	484679	.00	0	.00	459817	459817.00	0
39-02	BOND RESERVE	0	.00	0	0	.00	0	.00	0	.00	0
39-15	WAGE AND SALARY	0	.00	0	0	.00	0	.00	0	.00	0
39 **	CONTINGENCY	12440-	.00	0	484679	.00	0	.00	459817	459817.00	0
40-00	TRAVEL AND PER DIEM	1268	229.00	18	12862	2538.06	20	.00	15438	12899.94	16
40-01	CAR ALLOWANCE	0	.00	0	0	.00	0	.00	0	.00	0
40 **	TRAVEL AND PER DIEM	1268	229.00	18	12862	2538.06	20	.00	15438	12899.94	16
41-00	COMMUNICATION	20432	25473.82	125	167221	165903.93	99	38061.67	208103	4137.40	98
41 **	COMMUNICATION	20432	25473.82	125	167221	165903.93	99	38061.67	208103	4137.40	98
42-00	FREIGHT & POSTAGE SERVICE	1476	100.76	7	14760	1506.44	10	.00	17740	16233.56	9
42 **	FREIGHT & POSTAGE SERVICE	1476	100.76	7	14760	1506.44	10	.00	17740	16233.56	9
43-00	ELECTRIC/WATER/SEWER	160578	443055.09	276	1781691	1404480.13	79	276958.76	2102880	421441.11	80
43 **	ELECTRIC/WATER/SEWER	160578	443055.09	276	1781691	1404480.13	79	276958.76	2102880	421441.11	80
44-00	RENTAL AND LEASES	4495	48.79	1	34752	31048.60	89	3285.00	43775	9441.40	78
44 **	RENTAL AND LEASES	4495	48.79	1	34752	31048.60	89	3285.00	43775	9441.40	78
45-00	INSURANCE	64272	.00	0	488661	620606.94	127	.00	620607	.06	100
45 **	INSURANCE	64272	.00	0	488661	620606.94	127	.00	620607	.06	100
46-00	REPAIRS & MAINTENANCE	437899	377288.12	86	6009864	4065360.83	68	1018034.58	6885834	1802438.59	74
46-02	REPAIR/MAINT BUILDING	28690	1393.31	5	300120	258519.89	86	20071.20	357512	78920.91	78
46-03	REPAIR/MAINT-VEHICLES	18224	14161.68	78	188837	124583.20	66	12251.53	232237	95402.27	59
46-15	INSURED VEHICLE ACCIDENT	0	.00	0	0	.00	0	.00	0	.00	0

FUND 421 WATER/SEWER FUND

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
46 **	REPAIRS & MAINTENANCE	484813	392843.11	81	6498821	4448463.92	69	1050357.31	7475583	1976761.77	74
47-00	PRINTING & BINDING	615	1285.00	209	6150	1773.00	29	.00	7420	5647.00	24
47 **	PRINTING & BINDING	615	1285.00	209	6150	1773.00	29	.00	7420	5647.00	24
48-00	PROMOTIONAL ACTIVITIES	1666	895.95	54	16660	11653.13	70	2300.00	20000	6046.87	70
48 **	PROMOTIONAL ACTIVITIES	1666	895.95	54	16660	11653.13	70	2300.00	20000	6046.87	70
49-00	OTHER CHARGES & OBLIG.	6361	6427.98	101	41535	267.09	1	1439.10	59955	58248.81	3
49-02	ADVERTISING	0	.00	0	0	.00	0	.00	0	.00	0
49-07	BAD DEBT EXPENSE	0	6531.90-	0	0	53849.49-	0	.00	0	53849.49	0
49-08	CASH OVER & UNDER	0	11.00	0	0	33.08-	0	.00	0	33.08	0
49-09	DOCUMENT RECORDING CHGS	250	71.00	28	2500	1602.30-	64-	1155.00	3000	3447.30	15-
49-15	OBSOLETE INVENTORY	0	.00	0	0	.00	0	.00	0	.00	0
49-17	DAMAGED INVENTORY	0	.00	0	0	.00	0	.00	0	.00	0
49-31	OVERHEAD ALLOCATION	0	.00	0	0	.00	0	.00	0	.00	0
49 **	OTHER CHARGES & OBLIG.	6611	21.92-	0	44035	55217.78-	125-	2594.10	62955	115578.68	84-
51-00	OFFICE SUPPLIES	3214	2872.85	89	20185	13926.60	69	.00	26652	12725.40	52
51 **	OFFICE SUPPLIES	3214	2872.85	89	20185	13926.60	69	.00	26652	12725.40	52
52-00	OPERATING SUPPLIES	111446	62148.64	56	595677	662560.45	111	47918.35	835187	124708.20	85
52-07	JANITORIAL SUPPLIES	769	705.94	92	7690	6522.00	85	.00	9240	2718.00	71
52-09	CHEMICALS	361523	377719.96	105	3690230	3007169.84	82	1352338.41	4413258	53749.75	99
52-30	FUEL OIL & LUBRICANTS	33452	55960.13	167	334736	342568.92	102	20553.76	407491	44368.32	89
52-33	EMPLOYEE HEALTH CENTER	6027	657.14	11	60270	36068.83	60	36255.17	72324	.00	100
52 **	OPERATING SUPPLIES	513217	497191.81	97	4688603	4054890.04	87	1457065.69	5737500	225544.27	96
53-00	ROAD MATERIALS/SUPPLIES	1943	.00	0	19430	19067.36	98	1004.52	30000	9928.12	67
53 **	ROAD MATERIALS/SUPPLIES	1943	.00	0	19430	19067.36	98	1004.52	30000	9928.12	67
54-00	MEMBERSHIP/PUBLICATIONS	3284	.00	0	32840	33359.50	102	230.00	39445	5855.50	85

FUND 421 WATER/SEWER FUND

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
54 **	MEMBERSHIP/PUBLICATIONS	3284	.00	0	32840	33359.50	102	230.00	39445	5855.50	85
55-00	TRAINING	5696	3435.00	60	66981	26351.41	39	21982.00	78394	30060.59	62
55-01	EDA PROGRAM	339	636.84	188	2373	1940.04	82	.00	3050	1109.96	64
55 **	TRAINING	6035	4071.84	68	69354	28291.45	41	21982.00	81444	31170.55	62
56-00	TECHNOLOGY SYSTEMS	0	.00	0	0	.00	0	.00	0	.00	0
56-15	IT-RELATED OPERATING EXP	301485	21665.69	7	2751803	226055.23	8	98561.05	3359915	3035298.72	10
56 **	TECHNOLOGY SYSTEMS	301485	21665.69	7	2751803	226055.23	8	98561.05	3359915	3035298.72	10
59-00	DEPRECIATION EXPENSE	0	.00	0	0	.00	0	.00	0	.00	0
59 **	DEPRECIATION EXPENSE	0	.00	0	0	.00	0	.00	0	.00	0
61-00	LAND	0	.00	0	0	.00	0	.00	0	.00	0
61 **	LAND	0	.00	0	0	.00	0	.00	0	.00	0
62-00	BUILDINGS	3000	.00	0	3000	.00	0	10222.06	9000	1222.06-	114
62 **	BUILDINGS	3000	.00	0	3000	.00	0	10222.06	9000	1222.06-	114
63-00	INFRASTRUCTURE	1008723	40915.05	4	5710711	388245.03	7	760584.69	7728190	6579360.28	15
63-06	FDEM H0477 LS#1	0	.00	0	0	.00	0	.00	0	.00	0
63-07	IMPROVE OTHER THAN BLDG	0	.00	0	0	.00	0	.00	0	.00	0
63 **	INFRASTRUCTURE	1008723	40915.05	4	5710711	388245.03	7	760584.69	7728190	6579360.28	15
64-00	MACHINERY & EQUIPMENT	176134	33265.00	19	1383261	505842.75	37	608920.43	1751709	636945.82	64
64-15	IT HARDWARE	35564	.00	0	373819	139841.61	37	125205.80	444950	179902.59	60
64 **	MACHINERY & EQUIPMENT	211698	33265.00	16	1757080	645684.36	37	734126.23	2196659	816848.41	63
65-00	CONSTRUCTION IN PROGRESS	0	.00	0	0	.00	0	.00	0	.00	0
65 **	CONSTRUCTION IN PROGRESS	0	.00	0	0	.00	0	.00	0	.00	0
68-10	SFTWR & OTHER INTANGIBLES	0	.00	0	0	.00	0	.00	0	.00	0
68 **	INTANGIBLE ASSETS	0	.00	0	0	.00	0	.00	0	.00	0
69-99	CONTRA FIXED ASSETS	0	.00	0	0	545733.61-	0	.00	0	545733.61	0

FUND 421 WATER/SEWER FUND

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
69 **	PROPRIETARY FUNDS	0	.00	0	0	545733.61-	0	.00	0	545733.61	0
71-20	SERIES 2020	0	.00	0	0	60020.00-	0	.00	0	60020.00	0
71 **	DEBT SERVICE - PRINCIPAL	0	.00	0	0	60020.00-	0	.00	0	60020.00	0
72-20	W/S SERIES 2020	0	.00	0	0	.00	0	.00	0	.00	0
72 **	DEBT SERVICE - INTEREST	0	.00	0	0	.00	0	.00	0	.00	0
73-00	OTHER DEBT SERVICE COST	385	.00	0	1580	2250.00	142	.00	2350	100.00	96
73 **	OTHER DEBT SERVICE COST	385	.00	0	1580	2250.00	142	.00	2350	100.00	96
82-00	AID TO PRIVATE ORGANIZAT	100	.00	0	1000	.00	0	.00	1200	1200.00	0
82-01	ECON DEV INCENTIVE CONTR	0	.00	0	0	.00	0	.00	0	.00	0
82 **	AID TO PRIVATE ORGANIZAT	100	.00	0	1000	.00	0	.00	1200	1200.00	0
91-01	TO GENERAL FUND 001	603112	603112.92	100	6031120	6449845.33	107	.00	7237355	787509.67	89
91-23	TO STORMWATER 423	0	.00	0	0	.00	0	.00	0	.00	0
91-24	RENEWAL & REPLACE 424	168055	.00	0	7224423	7560534.00	105	.00	7560534	.00	100
91-25	TO RESTRICTED ASSET 425	608525	594117.08	98	6085250	6114066.56	101	.00	7302306	1188239.44	84
91-26	TO W/S 2018B (426)	0	.00	0	0	.00	0	.00	0	.00	0
91-27	TO TCR/SJR PROJECT 427	0	.00	0	0	.00	0	.00	0	.00	0
91-30	TO GF CAP PROJ (301)	0	.00	0	0	.00	0	.00	0	.00	0
91-42	IMPACT FEES FUND 422	0	.00	0	0	.00	0	.00	0	.00	0
91-52	TO W/C INS FUND (520)	0	.00	0	0	.00	0	.00	0	.00	0
91-53	TO HEALTH INS FUND (530)	0	.00	0	0	.00	0	.00	0	.00	0
91 **	INTERFUND TRANSFER	1379692	1197230.00	87	19340793	20124445.89	104	.00	22100195	1975749.11	91
95-01	6% ILO FRANCHISE FEE	130242	130243.00	100	1302420	1302430.00	100	.00	1562914	260484.00	83
95 **	NONOPERATING	130242	130243.00	100	1302420	1302430.00	100	.00	1562914	260484.00	83
FUND 421	TOTAL ********* WATER/SEWER FUND	6911513	5401218.62	78	70999295	54289777.64	77	5539627.46	84866965	25037559.90	71

FUND 421 WATER/SEWER FUND

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
GRAND TOTAL *********		6911513	5401218.62	78	70999295	54289777.64	77	5539627.46	84866965	25037559.90	71

FY 2022 Budget by Classification Report - Summary Listing

7/31/2022

Target for July 2022 is 83%

FUND 423 - STORMWATER FUND

	Amended Budget	YTD Encumbrances	YTD Actual Transactions	Budget - YTD Transactions	% Used/Rec'd
REVENUE					
***STORMWATER ASSESSMENT**	$ 1,830,148		$ 1,984,061	$ (153,913)	108%
CHARGES FOR SERVICES	$ -		$ (680)	$ 680	100%
INTERGOVERNMENTAL/GRANT	$ 13,054		$ 26,954	$ (13,900)	0%
MISCELLANEOUS	$ 400		$ 13,282	$ (12,882)	100%
OTHER SOURCES (NON-REVENUE)	$ 289,989		$ -	$ 289,989	0%
REVENUE TOTALS	**$ 2,133,591**	**-**	**$ 2,023,617**	**$ 109,974**	**95%**
EXPENSE					
SALARIES AND BENEFITS	$ 647,047	$ -	$ 419,223	$ 227,824	65%
OPERATING EXPENDITURES	$ 744,287	$ 90,969	$ 374,982	$ 278,336	63%
CAPITAL OUTLAY	$ 742,257	$ 185,583	$ 37,194	$ 519,480	30%
OTHER SOURCES (NON-REVENUE)	$ -	$ -	$ -	$ -	
EXPENSE TOTALS	**$ 2,133,591**	**$ 276,553**	**$ 831,398**	**$ 1,025,640**	**52%**
REVENUE TOTALS	**$ 2,133,591**	**$ -**	**$ 2,023,617**	**$ 109,974**	**95%**
EXPENSE TOTALS	**$ 2,133,591**	**$ 276,553**	**$ 831,398**	**$ 1,025,640**	**52%**
	$ -	**$ (276,553)**	**$ 1,192,219**	**$ (915,666)**	

*Stormwater Assessment Revenues come in November-March

CITY OF COCOA, FLORIDA

FUND 423 STORMWATER UTILITY

ACCOUNT	ACCOUNT DESCRIPTION	CURRENT ESTIMATED	CURRENT ACTUAL	CURRENT %REV	YEAR-TO-DATE ESTIMATED	YEAR-TO-DATE ACTUAL	YEAR-TO-DATE %REV	ANNUAL ESTIMATE	UNREALIZED BALANCE
320	OTHER PERMITS & FEES								
325	SPECIAL ASSESSMENT								
23 01	STRMWTR SPEC ASSMNT	144,179	.00		1,441,790	1,865,439.00	129	1,730,148	135,291.00-
23 02	DELINQUENT TAX	0	52.96		0	52.96		0	52.96-
23 03	PENALTIES	0	2.59		0	5,497.54		0	5,497.54-
23 04	TAX CERTIFICATES	8,333	.00		83,330	113,071.46	136	100,000	13,071.46-
23 *	STORMWATER	152,512	55.55		1,525,120	1,984,060.96	130	1,830,148	153,912.96-
325 **	SPECIAL ASSESSMENT	152,512	55.55		1,525,120	1,984,060.96	130	1,830,148	153,912.96-
320 ***	OTHER PERMITS & FEES	152,512	55.55		1,525,120	1,984,060.96		1,830,148	153,912.96-
330	INTERGOVERNMENTAL REVENUE								
331	FEDERAL GRANTS								
331 **	FEDERAL GRANTS	0	.00		0	.00		0	.00
338	SHARED REVENUE LOCAL UNIT								
10 02	CHURCH STREET BAFFLE BOX	0	13,900.00-		0	.00		0	.00
10 05	SAVE OUR INDIAN RVR LAGN	1,450	26,954.00	1859	10,150	26,954.00	266	13,054	13,900.00-
10 *	SHARED REV - BREVARD CTY	1,450	13,054.00	900	10,150	26,954.00	266	13,054	13,900.00-
338 **	SHARED REVENUE LOCAL UNIT	1,450	13,054.00	900	10,150	26,954.00	266	13,054	13,900.00-
330 ***	INTERGOVERNMENTAL REVENUE	1,450	13,054.00		10,150	26,954.00		13,054	13,900.00-
340	CHARGES FOR SERVICES								
343	PHYSICAL ENVIRONMENT								
91 00	STORMWATER FEES	0	.00		0	680.03-		0	680.03
91 *	STORMWATER FEES	0	.00		0	680.03-		0	680.03
343 **	PHYSICAL ENVIRONMENT	0	.00		0	680.03-		0	680.03
340 ***	CHARGES FOR SERVICES	0	.00		0	680.03-		0	680.03
360	MISCELLANEOUS REVENUES								
361	INTEREST & OTHER EARNINGS								
10 00	INTEREST	0	1,040.73		0	11,460.71		0	11,460.71-
10 02	INVESTMENT INTEREST	0	315.31		0	1,084.09		0	1,084.09-
10 10	SBA	0	6.25		0	41.92		0	41.92-
10 *	INTEREST	0	1,362.29		0	12,586.72		0	12,586.72-

CITY OF COCOA, FLORIDA

FUND 423 STORMWATER UTILITY

ACCOUNT		ACCOUNT DESCRIPTION	CURRENT ESTIMATED	CURRENT ACTUAL	CURRENT %REV	YEAR-TO-DATE ESTIMATED	YEAR-TO-DATE ACTUAL	YEAR-TO-DATE %REV	ANNUAL ESTIMATE	UNREALIZED BALANCE
30	00	NET INC/DEC FMV INVESTMNT	0	2,998.92-		0	11,599.13-		0	11,599.13
40	00	GAIN/(LOSS) SALE INVEST	0	518.60-		0	568.37-		0	568.37
40	*	GAIN/(LOSS) SALE INVEST	0	518.60-		0	568.37-		0	568.37
361	**	INTEREST & OTHER EARNINGS	0	2,155.23-		0	419.22		0	419.22-
364		DISPOSITION FIXED ASSETS								
00	00	DISPOSITION FIXED ASSETS	0	.00		0	8,968.75		0	8,968.75-
364	**	DISPOSITION FIXED ASSETS	0	.00		0	8,968.75		0	8,968.75-
369		OTHER MISC REVENUES								
90	00	OTHER MISC REVENUES	33	.00		330	3,893.93	1180	400	3,493.93-
369	**	OTHER MISC REVENUES	33	.00		330	3,893.93	1180	400	3,493.93-
360	***	MISCELLANEOUS REVENUES	33	2,155.23-		330	13,281.90		400	12,881.90-
380		OTHER SOURCES(NON-REV)								
381		INTERFUND TRANSFER								
91	*	TRANSFER FROM	0	.00		0	.00		0	.00
381	**	INTERFUND TRANSFER	0	.00		0	.00		0	.00
389		NON OPERATING SOURCES								
99	50	FUND BAL-APPROP. RESERVES	26,397	.00		237,198	.00		289,989	289,989.00
99	*	BALANCE FORWARD	26,397	.00		237,198	.00		289,989	289,989.00
389	**	NON OPERATING SOURCES	26,397	.00		237,198	.00		289,989	289,989.00
380	***	OTHER SOURCES(NON-REV)	26,397	.00		237,198	.00		289,989	289,989.00
FUND TOTAL		STORMWATER UTILITY	180,392	10,954.32		1,772,798	2,023,616.83		2,133,591	109,974.17
GRAND TOTAL			180,392	10,954.32		1,772,798	2,023,616.83		2,133,591	109,974.17

FUND 423 STORMWATER UTILITY

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
12-00	REGULAR SALARIES & WAGES	35107	39546.93	113	351682	266718.14	76	.00	421910	155191.86	63
12-10	SALARY ADJUSTMENTS	0	.00	0	0	.00	0	.00	0	.00	0
12-12	ACCRUAL PAYOUTS	102	.00	0	408	608.05	149	.00	609	.95	100
12 **	REGULAR SALARIES & WAGES	35209	39546.93	112	352090	267326.19	76	.00	422519	155192.81	63
13-00	OTHER SALARIES & WAGES	0	.00	0	0	.00	0	.00	0	.00	0
13 **	OTHER SALARIES & WAGES	0	.00	0	0	.00	0	.00	0	.00	0
14-00	OVERTIME	506	410.22	81	5060	4937.22	98	.00	6075	1137.78	81
14-01	COMP TIME	0	.00	0	0	.00	0	.00	0	.00	0
14 **	OVERTIME	506	410.22	81	5060	4937.22	98	.00	6075	1137.78	81
15-00	SPECIAL PAY	0	.00	0	0	.00	0	.00	0	.00	0
15 **	SPECIAL PAY	0	.00	0	0	.00	0	.00	0	.00	0
20-00	CLOTHING/SHOE ALLOWANCE	60	60.00-	100-	600	720.00	120	.00	720	.00	100
20 **	CLOTHING/SHOE ALLOWANCE	60	60.00-	100-	600	720.00	120	.00	720	.00	100
21-00	FICA TAXES	2328	3024.62	130	23280	20619.37	89	.00	27937	7317.63	74
21 **	FICA TAXES	2328	3024.62	130	23280	20619.37	89	.00	27937	7317.63	74
22-00	RETIREMENT CONTRIBUTIONS	3235	4758.91	147	32350	29889.18	92	.00	38830	8940.82	77
22-01	GASB68 PENS EXP	0	.00	0	0	.00	0	.00	0	.00	0
22 **	RETIREMENT CONTRIBUTIONS	3235	4758.91	147	32350	29889.18	92	.00	38830	8940.82	77
23-00	INSURANCES	108	98.64	91	1080	970.96	90	.00	1300	329.04	75
23-03	CONTRA CIGNA SAVINGS	0	.00	0	0	.00	0	.00	0	.00	0
23-04	MEDICAL	7452	5380.58	72	76446	50385.49	66	.00	91359	40973.51	55
23-07	DENTAL INSURANCE	275	209.65	76	2750	2028.49	74	.00	3300	1271.51	62
23-08	VISION INSURANCE	58	45.46	78	580	412.45	71	.00	700	287.55	59
23-09	LONG TERM DISABILITY	108	99.70	92	1080	926.57	86	.00	1300	373.43	71
23-10	FSA HEALTH	0	.00	0	0	.00	0	.00	0	.00	0

FUND 423 STORMWATER UTILITY

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
23-11	FSA CHILDCARE	0	.00	0	0	.00	0	.00	0	.00	0
23-99	OPEB HEALTH EXPENSE	0	.00	0	0	.00	0	.00	0	.00	0
23 **	INSURANCES	8001	5834.03	73	81936	54723.96	67	.00	97959	43235.04	56
24-00	WORKER'S COMPENSATION	4017	4633.27	115	40170	37186.29	93	.00	48207	11020.71	77
24 **	WORKER'S COMPENSATION	4017	4633.27	115	40170	37186.29	93	.00	48207	11020.71	77
26-00	OPEB HEALTH EXPENSE	0	.00	0	0	.00	0	.00	0	.00	0
26 **	OPEB HEALTH EXPENSE	0	.00	0	0	.00	0	.00	0	.00	0
27-00	BENEFIT OFFSET	400	400.00	100	4000	3820.54	96	.00	4800	979.46	80
27 **	BENEFIT OFFSET	400	400.00	100	4000	3820.54	96	.00	4800	979.46	80
31-00	PROFESSIONAL SERVICES	15450	22206.49	144	120620	56605.17	47	59911.90	151530	35012.93	77
31-01	LEGAL EXPENSES	41	.00	0	410	.00	0	.00	500	500.00	0
31-33	EMPLOYEE HEALTH CENTER	607	223.02	37	6070	4510.73	74	2783.27	7294	.00	100
31 **	PROFESSIONAL SERVICES	16098	22429.51	139	127100	61115.90	48	62695.17	159324	35512.93	78
34-00	CONTRACT SERVICES	7403	2315.22	31	44184	40276.92	91	14925.71	59000	3797.37	94
34-10	COST OF GENERAL FUND SVCS	15758	15758.00	100	157580	157580.00	100	.00	189096	31516.00	83
34 **	CONTRACT SERVICES	23161	18073.22	78	201764	197856.92	98	14925.71	248096	35313.37	86
39-00	CONTINGENCY	4136	.00	0	74734	.00	0	.00	83009	83009.00	0
39 **	CONTINGENCY	4136	.00	0	74734	.00	0	.00	83009	83009.00	0
40-00	TRAVEL & PER DIEM	237	.00	0	2370	27.79	1	.00	2850	2822.21	1
40 **	TRAVEL & PER DIEM	237	.00	0	2370	27.79	1	.00	2850	2822.21	1
41-00	COMMUNICATION	173	90.70	52	1730	1361.52	79	530.48	2076	184.00	91
41 **	COMMUNICATION	173	90.70	52	1730	1361.52	79	530.48	2076	184.00	91
42-00	POSTAGE & FREIGHT	41	14.76	36	410	36.90	9	.00	500	463.10	7
42 **	POSTAGE & FREIGHT	41	14.76	36	410	36.90	9	.00	500	463.10	7
43-00	ELECTRIC/WATER/SEWER	1250	1109.88	89	12500	9366.32	75	2981.72	15000	2651.96	82

FUND 423 STORMWATER UTILITY

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
43 **	ELECTRIC/WATER/SEWER	1250	1109.88	89	12500	9366.32	75	2981.72	15000	2651.96	82
44-00	RENTALS AND LEASES	2003	.00	0	18235	123.78	1	.00	22250	22126.22	1
44 **	RENTALS AND LEASES	2003	.00	0	18235	123.78	1	.00	22250	22126.22	1
45-00	INSURANCE	1085	.00	0	8924	12868.07	144	.00	12869	.93	100
45 **	INSURANCE	1085	.00	0	8924	12868.07	144	.00	12869	.93	100
46-00	REPAIRS & MAINTENANCE	11668	507.46	4	84701	28814.59	34	108.00-	111522	82815.41	26
46-02	REPAIR/MAINT BUILDING	0	.00	0	0	.00	0	.00	0	.00	0
46-03	REPAIR/MAINT-VEHICLES	3498	3292.35	94	34980	32397.87	93	4759.35	41977	4819.78	89
46-15	INSURED VEHICLE ACCIDENT	0	.00	0	0	.00	0	.00	0	.00	0
46 **	REPAIRS & MAINTENANCE	15166	3799.81	25	119681	61212.46	51	4651.35	153499	87635.19	43
47-00	PRINTING & BINDING	41	.00	0	410	187.00	46	.00	500	313.00	37
47 **	PRINTING & BINDING	41	.00	0	410	187.00	46	.00	500	313.00	37
49-00	OTHER CHARGES & OBLIG.	22	80.00	364	220	80.00	36	70.20	267	116.80	56
49-07	BAD DEBT EXPENSE	0	220.68-	0	0	2455.84-	0	.00	0	2455.84	0
49-15	OBSOLETE INVENTORY	0	.00	0	0	.00	0	.00	0	.00	0
49-31	OVERHEAD ALLOCATION	0	.00	0	0	.00	0	.00	0	.00	0
49 **	OTHER CHARGES & OBLIG.	22	140.68-	640-	220	2375.84-	1080-	70.20	267	2572.64	864-
51-00	OFFICE SUPPLIES	41	.00	0	410	90.27	22	.00	500	409.73	18
51 **	OFFICE SUPPLIES	41	.00	0	410	90.27	22	.00	500	409.73	18
52-00	OPERATING SUPPLIES	1088	1264.19	116	10380	7272.80	70	1966.06	12564	3325.14	74
52-07	JANITORIAL SUPPLIES	0	.00	0	0	.00	0	.00	0	.00	0
52-30	FUEL OIL & LUBRICANTS	479	4128.52	862	4790	20403.08	426	.00	19145	1258.08-	107
52-33	EMPLOYEE HEALTH CENTER	294	32.05	11	2940	1759.42	60	1768.58	3528	.00	100
52 **	OPERATING SUPPLIES	1861	5424.76	292	18110	29435.30	163	3734.64	35237	2067.06	94
53-00	ROAD MATERIALS/SUPPLIES	0	.00	0	0	.00	0	.00	0	.00	0

FUND 423 STORMWATER UTILITY

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
53 **	ROAD MATERIALS/SUPPLIES	0	.00	0	0	.00	0	.00	0	.00	0
54-00	MEMBERSHIP/PUBLICATIONS	69	.00	0	669	815.00	122	.00	815	.00	100
54 **	MEMBERSHIP/PUBLICATIONS	69	.00	0	669	815.00	122	.00	815	.00	100
55-00	TRAINING	393	.00	0	3951	1480.02	38	.00	4735	3254.98	31
55 **	TRAINING	393	.00	0	3951	1480.02	38	.00	4735	3254.98	31
56-15	IT-RELATED OPERATING EXP	394	460.10	117	1970	1380.10	70	1380.00	2760	.10-	100
56 **	TECHNOLOGY SYSTEMS	394	460.10	117	1970	1380.10	70	1380.00	2760	.10-	100
59-00	DEPRECIATION	0	.00	0	0	.00	0	.00	0	.00	0
59 **	DEPRECIATION	0	.00	0	0	.00	0	.00	0	.00	0
61-00	LAND	0	.00	0	0	.00	0	.00	0	.00	0
61 **	LAND	0	.00	0	0	.00	0	.00	0	.00	0
63-00	INFRASTRUCTURE	41649	.00	0	462149	49702.88	11	157114.49	545455	338637.63	38
63-07	IMPROVE OTHER THAN BLDG	0	.00	0	0	.00	0	.00	0	.00	0
63 **	INFRASTRUCTURE	41649	.00	0	462149	49702.88	11	157114.49	545455	338637.63	38
64-00	MACHINERY & EQUIPMENT	16455	.00	0	151982	142681.97	94	28468.75	196802	25651.28	87
64-15	IT HARDWARE	0	.00	0	0	.00	0	.00	0	.00	0
64 **	MACHINERY & EQUIPMENT	16455	.00	0	151982	142681.97	94	28468.75	196802	25651.28	87
65-00	CONSTRUCTION IN PROGRESS	0	.00	0	0	.00	0	.00	0	.00	0
65 **	CONSTRUCTION IN PROGRESS	0	.00	0	0	.00	0	.00	0	.00	0
69-99	CONTRA FIXED ASSETS	0	.00	0	0	155190.97-	0	.00	0	155190.97	0
69 **	PROPRIETARY FUND	0	.00	0	0	155190.97-	0	.00	0	155190.97	0
72-00	DEBT SERVICE - INTEREST	0	.00	0	0	.00	0	.00	0	.00	0
72 **	DEBT SERVICE - INTEREST	0	.00	0	0	.00	0	.00	0	.00	0
91-01	TO GENERAL FUND 001	0	.00	0	0	.00	0	.00	0	.00	0
91-21	TO WATER SEWER (421)	0	.00	0	0	.00	0	.00	0	.00	0

FUND 423 STORMWATER UTILITY

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
91-26	WS CPTL PROJ 2018B 426	0	.00	0	0	.00	0	.00	0	.00	0
91-30	TO GF CAP PROJ (301)	0	.00	0	0	.00	0	.00	0	.00	0
91 **	INTERFUND TRANSFER	0	.00	0	0	.00	0	.00	0	.00	0
FUND 423	TOTAL *********										
	STORMWATER UTILITY	178031	109810.04	62	1746805	831398.14	48	276552.51	2133591	1025640.35	52
GRAND	TOTAL *********										
		178031	109810.04	62	1746805	831398.14	48	276552.51	2133591	1025640.35	52

Legislation Details (With Text)

File #:	22-482	**Version:**	1	**Name:**	
Type:	Informational Item			**Status:**	Agenda Ready
File created:	8/10/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	In accordance with the Financial Operations Manual (FOM) the City Manager shall submit to City Council in the form of an agenda item any 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 (Finance Director).				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Change Order Authorizations 07-31-22.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 10, 2022
Agenda Date: August 23,2022
Prepared By: Colleen Campbell, MBA Senior Budget Analyst
Through: Rebecca Bowman, MBA, CGFO, CGFM, Finance Director
Requested Action:
In accordance with the Financial Operations Manual (FOM) the City Manager shall submit to City Council in the form of an agenda item any 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.

BACKGROUND:

The attached spreadsheets reference construction projects with a previously authorized "contingency" as of July 31, 2022. The report provides the project number, project description, construction contract cost of project, contingency amount authorized, date of City Council approval, resolution number for authorization of contingency, requisition numbers, and expenditure by fiscal year.

The second line of each project in the third column under "Construction contract not to exceed $" references the contingency amount that the City Council or City Manager, if within his purchasing authority, has approved. The last line of each project provides the remaining balance as of the report date.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

None

PREVIOUS ACTION:

None

RECOMMENDED MOTION:

Informational Item Only.

FY2022 Change Orders - CM authorized to execute

applied to contingency | as of: 7/31/2022

Project #	Project Description + Details	Construction contract not to exceed $	Date Approved	Resolution #	Requisition #	Requisition $ by Account #	All Fiscal Years Cumulative	FY21 Cum.	FY22 Cum.	FY2022 Expenditures	FY2021 Expenditures
SW08PL	Cured In Place Piping										
Op. Rev.		153,333.00		2021-095							
Project Manag	Bryant Smith	3,090.00	contingency and other costs authorized								
account #	423-3570-538.63-00	150,243.00	exp authorized before contingency					Cumulative	FY22 cum		
	Granite In-Liner			FY2022	43529	146,070.00	$ 150,243.00		$ 150,243.00		
	PO# 78964			C/O #1	44772	4,173.00					
		3,090		C/O #2							
N/A	1113 Abingdon Way Rehabilitation										
Op. Rev.		75,000.00		2022-064							
Project Manag	From CDBG Fund Balance	5,000.00	contingency and other costs authorized								
account #	103-3240-554.83-13 ($4,000)	70,000.00	exp authorized before contingency					Cumulative	FY22 cum		
	105-3240-554.83-00 ($66,000)										
	ALGAT Enterprises, Inc			FY2022							
	PO# 79626										
		5,000									
WS22AR	Rexa Actuator										
Op. Rev.		54,723.00		2022-047							
Project Manager:		4,975.00	contingency and other costs authorized								
account #	421-4020-536.64-00	49,748.00	exp authorized before contingency					Cumulative	FY22 cum		
				FY2022			$ 49,748.00		$ 49,748.00		
	PO#										
		4,975									
WS22DC	Drainage Culvert										
Op. Rev.		603,057.00		2022-040							
Project Manager:		100,509.50	contingency and other costs authorized								
account #	421-4020-536.63-00	502,547.50	exp authorized before contingency					Cumulative	FY22 cum		
	Atlantic Development of Cocoa			FY2022	44609	502,547.50	$ 502,547.50		$ 502,547.50	$ 458,247.50	
	PO# 79573										
		100,509.50									
PW00CC	HVAC Civic Center										
Op. Rev.		110,895.00		2022-028							
Project Manager:		30,800.00	contingency and other costs authorized								
account #	001-3560-519.64-00	80,095.00	exp authorized before contingency					Cumulative	FY22 cum		
	Cortez Heating & Air			FY2022	44558	80,095.00	$ 100,890.00		$ 100,890.00		
	PO# 79572			C/O # 1	44656	20,795.00					
		10,005									
N/A	1219 Duke Way Rehabilitation										
Op. Rev.		60,777.00		2022-036							
Project Manager:		3,000.00	CDBG								
account #	105-3240-554.83-00	57,777.00	SHIP					Cumulative	FY22 cum		
	103-3240-554.83-13										
	ALGAT Enterprises, Inc			FY2022	44707	54,777.00	$ 60,777.00		$ 60,777.00	$ 53,942.30	
	PO# 79626				44707	3,000.00					
		-		C/O #1	44844	3,000.00					
GR2108	Fiske Blvd/Broadmoor Acres Drainage Improvement										
Op. Rev.		289,131.70	3/22/2022	2022-025							
Project Manager:		26,284.70	contingency and other costs authorized								
account #	303-3570-538.63-08	262,847.00	exp authorized before contingency					Cumulative	FY22 cum		
	424-4055-536.63-08										
	Tiera Inc.			FY2022	44454	197,135.00 63-08	$ 262,847.00		$ 262,847.00		
	PO# 79493				44454	65,712.00 63-01					
		26,285									
GR2102	Lift Station #1 Replacement										
Op. Rev.		718,638.00	12/14/2021	2021-124							
Project Manager:		65,331.00	contingency and other costs authorized								
account #	424-4055-536.63-06	653,307.00	exp authorized before contingency					Cumulative	FY22 cum		
	Carr & Collier			FY2022	44236	653,307.00	$ 653,307.00		$ 653,307.00	$ 38,902.50	
	PO # 079254										
		65,331									
WS18MI	PINEDA										
Op. Rev.		12,066,069.40	11/30/2021	21-112							
Project Manager:	City of Melbourne	1,096,915.40	contingency and other costs authorized								
account #	426-4055-536.63-00	10,969,154.00	exp authorized before contingency					Cumulative	FY21 cum	FY22 cum		
	421-4055-536.63-00										
	City of Melbourne			FY2021	WIRE	10,969,154.00	$ 11,454,346.24	$ 10,969,154.00	$ 485,192.24	$ 485,192.24	$ 10,969,154.00
	WIRE			FY2022	WIRE	399,159.24					
		611,723		CO #2	WIRE	86,033.00					
PW08SP	Paving										
Op. Rev.		310,427.08	10/26/2021	2021-104							
Project Manager:		7,443.40	contingency and other costs authorized								
account #	001-3510-541.63-00	292,556.60	exp authorized before contingency					Cumulative	FY21 cum	FY22 cum		
		17,870.48	exp increased with contingency Agenda 22-135								
	VA Paving			FY2022	43800	292,556.60	$ 292,556.60		$ 292,556.60		
	PO# 78906			CO #1	44237	17,870.48	$ 17,870.48		$ 17,870.48		
		-									
WS16MM	Marlin Manor										
Op. Rev.		3,528,617.74	10/26/2021	2021-102							
Project Manager:		320,783.43	contingency and other costs authorized								
account #	424-4055-536.63-00	3,207,834.31	exp authorized before contingency					Cumulative	FY21 cum	FY22 cum		
	Atlantic Development			FY2022	43818	3,207,834.31	$ 3,238,582.04		$ 3,238,582.04	$ 2,355,155.23	
	PO# 78969			CO #1	44069	15,335.21					
				CO #2	44859	15,412.52					
		290,036									

Project #	Project Description + Details	Construction contract not to exceed $	Date Approved	Resolution #	Requisition #	Requisition $ by Account #	All Fiscal Years Cumulative	FY21 Cum.	FY22 Cum.	FY2022 Expenditures	FY2021 Expenditures
WS21OU	Ozone										
Op. Rev.		1,187,064.00	8/24/2021	2021-079							
Project Manager:		108,000.00	contingency and other costs authorized								
account #	424-4020-536.63-00	1,079,074.00	exp authorized before contingency				Cumulative	FY21 cum	FY22 cum		
				FY2021	43248	1,079,074.00	$ 1,178,651.30		$ 1,178,651.30	$ 1,163,538.80	
	Vortex Services			CO #1	43248	(10.00)					
	PO#78445			CO #2	44000	99,587.30					
		8,413									
FL21FL	Fuel Tanks										
Op. Rev.		572,848.94	7/27/2021	2021-062							
Project Manager: Tony Jones		27,373.00	contingency and other costs authorized				Cumulative	FY21 cum	FY22 cum		
account #	421-4010-536.63-00	545,475.94	exp authorized before contingency								
	423-3570-538.63-00 and 001-3540-519.63-00			FY2021	43106	65,280.62	$ 65,280.62		$ 65,280.62	$ 65,280.62	
				FY2021	43104	480,195.29	$ 480,195.29		$ 480,195.29	$ 282,386.29	$ 80,721.58
	JRS Enterprises East Coast	11,770	421-4010-536.63-00								
	PO #78317 and 78325	13,960	001-3540-519.63-00								
		1,643	423-3570-538.63-00								
		27,373									
WS21WS - Wewahootee epoxy coating											
Op. Rev.		251,900.00	4/27/2021 and 7/27/21 (Additional Contingency)	2021-035 & 2021-065							
Project Manager:		53,950.00	contingency and other costs authorized								
account #	424-4020-536.63-00	197,950.00	exp authorized before contingency				Cumulative	FY21 cum	FY22 cum		
				FY2021	42724	197,950.00	$ 251,900.00		$ 251,900.00	$ 91,475.00	$ 106,475.00
	Vortex Services			CO#1	43114	53,950.00					
	PO#78016										
		-									
WS21FM - FDOT project SR 528											
Op. Rev.		256,410.00	12/8/2020	2020-250							
Project Manager:		23,310.00	contingency and other costs authorized								
account #	421-4055-536.63-00	233,100.00	exp authorized before contingency				Cumulative	FY21 cum	FY22 cum		
				FY2021	42151	233,100.00	$ 233,100.00		$ 233,100.00	$ 79,596.96	
	Danus Utility										
	Contractor PO# 77555										
		23,310									
WS1404 - Dyal Security											
Op. Rev.		2,616,301.00	11/10/2020	2020-229							
Project Manager:		237,845.00	contingency and other costs authorized								
account #	426-4055-536.63-00	2,378,456.00	exp authorized before contingency				Cumulative	FY21 cum	FY22 cum		
				FY2021	42305	2,378,456.00	$ 2,574,101.00	$ 2,378,456.00	$ 195,645.00	$ 1,560,719.51	$ 882,812.20
	Integrated Fire and Security Solutions			FY2022 CO # 2	43970	29,228.00					
	Contractor PO# 77691			FY2022 CO # 3		124,901.00					
				FY2022 CO # 4		13,875.00					
				FY2022 CO # 5		17,550.00					
				FY2022 CO # 6	44125	10,091.00					
		42,200									
WS1222	BNR Process Improvements										
Op. Rev.		1,658,802.00	2/22/2022	2022-018							
Project Manager:		150,801.00	contingency and other costs authorized								
account #	424-4120-536.63-00	1,508,001.00	exp authorized before contingency				Cumulative	FY21 cum	FY22 cum		
				FY2022	44517	1,508,001.00	$ 1,508,001.00		$ 1,508,001.00	$ 507,911.04	
	E&D Contracting Services Vendor #10461										
	PO# 079480										
		150,801									
WS1001	Industrial Park Pump Station										
Op. Rev.		4,889,500.00	11/25/14, VIII.8	2014-138							
Project Manager Utilities		444,500.00	10% contingency authorized			63-00					
account #421-4055-536.63-00		4,445,000.00	exp authorized before contingency				Cumulative	FY21 cum	FY22 cum		
	Brandes Design-Build. PO #67318/69608/71924		FY15 PO Issue	FY 2015	26451	4,445,000.00	4,445,000.00				
	Bid No. B-15-01-COC		*CO #1 for electric actuated butterfly valves*	FY 2015	27931	41,985.41	4,486,985.41				
			CO#2 for necessary modifications to electrical design	FY 2015	28332	14,574.50	4,501,559.91				
	Quentin Hampton P.O. #67460/69493		*PO **65207** FY15 Year-End PO Liquidation*			(1,542,102.38)	2,959,457.53				
			*FY16 PO Issue PO#**67318***	FY2016	29192	**1,542,102.38**	4,501,559.91				
	Mead & Hunt (formerly QLH) PO #70943/71880		*TO 2015-67 P.O. **67455** TO CH2M for Scada Programing*		29315	21,434.07	4,522,993.98				
			*PO#**67460** to QLH for SDC*		29381	53,001.11	4,575,995.09				
	CH2M Hill PO #67455/		*CO # 1 PO **67460** Additional Services Industrial Park*		29593	23,033.00	4,599,028.09				
			*CO#1 PO **67318***		29647	**53,686.38**	4,652,714.47				
	RM Packard $ Assoc. Inc. 73686		*CO#2 install electronic indicators PO **67318***		30007	**8,917.65**	4,661,632.12				
			*CO#2 additional inspection services PO#**67460***		30758	18,000.00	4,679,632.12				
			PO 67318 FY16 Year-End PO Liquidation			(806,347.80)	3,873,284.32				
			PO 67460 FY16 Year-End PO Liquidation			(26,064.34)	3,847,219.98				
			PO 67455 FY16 Year-End PO Liquidation			(12,619.15)	3,834,600.83				
			PO#69493 Quentin Hampton (reissue PO#67460)	FY 2017	31910	26,064.34	3,860,665.17				
			PO#69608 Brandes Design-Build (reissue PO#67318)		31980	806,347.80	4,667,012.97				
			PO#69493 QLH liquidated balance; reissue to Mead and Hunt		33725	(11,284.39)	4,655,728.58				
			PO#70943 Mead & Hunt (reissue PO#69493)		33736	11,284.39	4,667,012.97				
							4,667,012.97				
			PO#69608 Brandes Design-Build (reissue PO#67318)		31980	(420,315.30)	4,246,697.67				
			PO#70943 Mead & Hunt (reissue PO#69493)		33736	(9,984.39)	4,236,713.28				
			PO#71924 Brandes Design-Build (reissue PO#69608)	FY2018	34892	420,315.30	4,657,028.58				
					34893	9,984.39	$ 4,667,012.97				
			PO#73686	FY2019		1,000.00					
		209,868	^contingency balance-->								

Legislation Details (With Text)

File #:	22-510	**Version:**	1	**Name:**	
Type:	Informational Item			**Status:**	Agenda Ready
File created:	8/18/2022			**In control:**	City Council
On agenda:	8/23/2022			**Final action:**	
Title:	Bi-Weekly Council Update Report. (City Manager)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Council bi-weekly report template-Final(1).pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: August 18, 2022
Agenda Date: August 23, 2022
Prepared By:
Through: Stockton Whitten, City Manager
Requested Action:
Bi-Weekly Council Update Report provided by Department Directors.

BACKGROUND:

N/A

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

At the request of City Council, Department Directors provide a bi-weekly report of updates for Council's review.

RECOMMENDED MOTION:

No formal action required.

City Manager's Office
65 Stone Street • Cocoa, FL 32922

To: Mayor and City Council Members

From: Stockton Whitten, City Manager

Date: August 10, 2022 – August 19, 2022

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 – 21 requests received/19 requests closed
- Employment opportunities link: https://www.governmentjobs.com/careers/cocoafl
  - 22-067: Accounts Payable Clerk, Finance/General Accounting
  - 22-070: Dispatcher/Communications Officer, Police/Communications
  - 22-047: Facility Attendant (PT), City Manager/Leisure Services
  - 22-083: Help Desk Support Technician, Information Technology
  - 22-008: Maintenance Worker I - Field Operations, Utilities/Sewer Field Operations
  - 22-009: Maintenance Worker I/WFO, Utilities/WFO
  - 22-013: Maintenance Worker II, Public Works/Stormwater & Streets
  - 22-086: Planner / Senior Planner, Growth and Economic Development
  - 22-087: Planning and GIS Specialist, Growth and Economic Development
  - 22-084: Planning and Zoning Manager, Growth and Economic Development
  - 22-037: Police Officer, Police/Administration
  - 22-071: Police Officer Trainee, Police/Administration
  - 22-088: Utility Field Service Representative, Finance/Field Services
  - 22-081: Utility Mechanic I – Dyal, Utilities/Dyal
  - 22-017: Utility Mechanic I, Utilities/Water Field Operations
- New employees (August 8, 2022)
  - Jordan Smith, Apprentice Operator/Utilities

    - Jade Lockhart, Customer Service Representative/Finance
- Recent promotions
    - Calvin Bailey, Valve Operator/Utilities, August 22
    - Ellison Gaulding, Police Officer/Police, August 8
- Key retirements (August 31, 2022)
    - Kevin Mulligan, Fire Lieutenant/Fire, 26 years

City Manager's Office

- New press releases:
    - Mayor Blake elected as 2nd VP
    - EFSC to invest $87 over the next 10 years in Cocoa campus
    - Chef's Kitchen Successfully completes UpStart Cocoa Program
- Upcoming Events:
    - September 6, 2022 – City Hall Tour with Brevard Achievement Center
- Citizens Academy updates
    - Only 4 spaces left for the 22/23 program which begins October 4, 2022
- Social media/e-newsletter statistics
    - Facebook
        - Post reach: 25,647
        - Post engagement: 8,546
        - Followers: 14,217
    - Twitter
        - Impressions: 4,875
        - Followers: 2,823
    - LinkedIn
        - Post impressions: 547
        - Followers: 914
    - NextDoor
        - Impressions: 4,512
        - Members: 3,614
    - August e-newsletter
        - Sent to 624 contacts
        - 54% open rate (average open rate for e-mail marketing in 2022 is 17%)
    - Next printed FYI Newsletter mails October 1, 2022.

Community Services

- Major project updates
    - Dollar General on SR 524 received Temporary CO
    - Pint and Pistol on Grissom received Temporary CO
    - Cocoa Grand Apartments ~80% complete
    - Integra Apartments ~30% complete
    - Cirrus Apartments ~10% complete
- New businesses –since July 1

    - D1 – 10
    - D2 – 1
    - D3 – 3
    - D4 – 3
- Permit/Inspection stats
    - 1,222 permits issued in 2022
    - 5,004 inspections in 2022
    - 181 permits under review
    - 76 permits issued since August 1
    - New Permit Schedule on August 23rd agenda
- CRA updates
    - 2023 proposed budgets approved
    - CRA Plan Update in progress
    - Hotel deliverables on schedule
- Home/SHIP/CDBG Updates
    - 1219 Duke Way rehab project completed
    - 1113 Abington St. Rehab project under way
    - 1138 Peachtree Street rehab project under way

Finance

- Customer Service/Utility Support Services processed:
    - 88,469 bills for July
    - $11.6M in utility payments
    - 3,186 Service orders
- Working on the Old Joe Lee Smith Center RFP
- Accounting is preparing for year-end by updating schedules, reviewing internal control documents, preparing year-end closeout schedule
- Auditors should be here in September for interim
- In process to make a Section 108 loan prepayment on 9/1
- Completed all quarterly filing for grants by 7/31
- Figuring out how to implement GASB 87 - Leases

Fire Department

- Call stats (Fire/EMS)
- Inspection stats

MONTHLY FIRE PREVENTION REPORT (July 2022)

- Annual Fire Inspections: 83
- New Business Fire Inspections: 6
- Re-Inspections Completed: 61
- New Construction Insp: (3 Fire Alarm Final, 2 Fire Alarm Rough-In, 2 Fire Sprinkler Final, 1 Hydrant Flow Test, 2 Building Final)
- Knox Box Installations: 1

- Fire Investigation: 1
- Code Investigation-Complaints: 3 (False Alarm & Work without Permit Investigation)
- Meeting-Consultation: (3 Meeting, 4 Consultation, 2 DRC Meeting)
- Food Truck Inspection: 3
- Const. Plan Review: 12
- Site Plan Review: 2
- School Safety Walkthrough: 1
- Training: 2 (Building Layout Training & Hood Training w/ F.A.S.T.)
- Total Inspections: 197

Growth and Economic Development

- Project updates/highlights September 7th P&Z will include:
  - An extension to the Arbours at Cocoa Landing site plan approval timeframe
  - A FLU and Zone Change for a .59-acre parcel on Dixon
  - A site plan approval for an expansion of the Diamondback Marine Division
  - A site plan approval for Orchid Lake a 90-Unit affordable multifamily rental housing development on Michigan Ave
  - An ordinance to repeal the schedule of fees for P&Z applications
  - The Cocoa Redevelopment Agency Plan Update for Community Policing Program
- New grants
  - Public Works grants on your 8/23 agenda
  - Investigating leads with IT and Public Works
  - Recipients of the Summer for the Kids program will be presenting at your 8/23 meeting
  - Submitted for and received an extension for the 2022 GAG police training grant
- Probusiness items
  - Upstart Cocoa Forgivable Loan contractual agreement for Chef's Kitchen has been prepared
  - Diamondback Marine Division is planning to add 100+ employees with their expansion

Information Technology

- Project updates/highlights
  - PD Server hardware upgrade scheduled for 8/25/2022 during maintenance window
  - ITB for replacement Storage Area Network (SAN) is published
  - EFSC intern to begin by the end of August
  - Mandatory semi-annual cybersecurity training scheduled to begin in early September
- Helpdesk stats as of 8/18/2022
  - 68 open helpdesk tickets
  - 324 new tickets opened in last 30 days

- 326 tickets closed/resolved in last 30 days
- 4557 tickets opened in last 365 days

Police Department

- Activity/Event highlights
  - 7/3/22 Guest Speaker at Cocoa Boys and Girls Club
  - 7/12/22 Cocoa Rotary Club guest speaker
  - 7/18/22 Attended Diamond Square CRA
  - 7/21/22 Attended JAC Advisory Board meeting and selected as treasurer
  - 7/28/22 Met with PAL kids for career day
  - 7/28/29 Attended Police Advisory Board meeting
  - 7/29/22 Attended Homeless Coalition planning meeting
  - 8/1/22-8/5/22 Attended L950 NIMS ICS All Hazards Incident Commander Training
  - 8/4/22 Attended PAL graduation
  - 8/8/22 Swear-In of Officer Gaulding
  - 8/16/22 Space Coast Health Foundation meeting/tour
  - 8/18/22 Boys and Girls Club Board meeting
  - 8/23/22 Faith Based Leaders meeting

- New project/training updates
  - All employees received a training on Diversity, Inclusion and Equity.
  - All sworn personnel received training on Guardian vs Warrior. Guardian mindset is the expectation.

- Chief's walk highlights
  - 7-13-22/1730 District 2 (Cocoa Place)
  - 7-20-22/1730 District 4 (2600 Clearlake)
  - 8-17-22/1730 District 1 (Polaris St)
  - 8-31-22/1730 District 3 (Quail Ridge Subdivision)

- Community engagement highlights/events
  - Participated in the Cops and Kids summer camp
  - Pack the Backpack Day
  - PAL Award Ceremony
  - School Supply Distribution and Community Fun Day Back to School
  - Received bicycle donations for Cocoa Community.

- Call stats-Crime Stats
  - Calls for Service (year to date): 45,511 (a 1% increase from the previous year)

	YTD 2021	YTD 2022	YTD % Change
Overall	45,269	45,511	1%
Dispatched	24,505	23,441	-4%
Self-Initiated	20,764	22,070	6%

Classification of Offenses	2021	2022	% Change	YTD
Murder	0	0	n/a	0
Sex Offenses	0	0	n/a	5
Robbery	4	1	-75%	19
Aggravated Assault/ Stalking	4	2	-50%	99
Total Violent Crimes	***8***	***3***	***-63%***	***123***
Simple Battery	24	20	-17%	358
Burglary	7	1	-86%	63
Larceny	31	16	-48%	457
Motor Vehicle Theft	3	5	67%	37
Total Property Crimes	***65***	***42***	***-35%***	***915***
Total	**73**	**45**	**-35%**	**1,038**

- Code Enforcement stats/highlights Activity:
  - Active Cases 48
  - Complied Cases 43
  - Code Board Cases scheduled for August 10
  - Snipe Signs Pulled 32

Highlights:

- Abated Amazon at 3655 Grissom PKWY – Cut the overgrowth and cleaned-up the entrance/parking lot.
- Worked on 3 properties for clean-ups removing trash & items left by the homeless. 225 Lemon, 227 Lemon, and 4 Washington St
- Swept Cocoa Pl. - walked the neighborhood educating residents on code issues. Gained compliance on most of the issues.
- Cited and helped remove a large pile of tree debris in the street on Denison Ct.

Public Works

- Major project updates
  - Annual resurfacing has been completed for FY22
  - Fiske and Broadmoor Acres – Bids were received on August 4, 2022. Two bids were received, with one being a no bid. FEMA has requested the City to rebid the project.
  - Annual Pipe Relining has been completed for FY22
  - FIND Boat Ramps – Construction Complete. Currently in project closeout.

    - FIND Dredging – Construction Complete. Currently in project closeout.
    - Fuel Tank Island and Tank Renovation Project completed.
    - Parks Projects
        - Junny Rios – In Design
        - Provost – In Design
        - Stradley – In Design
        - Bracco – Awaiting equipment delivery
- Work order stats (received/closed) from August 1 – August 15
    - 124 received
    - 78 closed
    - Residential Bulk Green Waste Requests: 50
- 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) - In Design
    - Brightline/FEC
        - On-going construction to complete tracks
- Waste Management Annual CPI Adjustment
    - As required per the Solid Waste Agreement between the City and the Solid Waste Contractor, an annual CPI increase will be effective on October 1, 2022. Customer rates will be adjusted accordingly.

Utilities

- Capital Project Updates: https://www.cocoafl.org/1660/Utilities-Capital-Improvement-Projects