City of Cocoa

65 Stone Street
Cocoa, FL 32922

Meeting Agenda - Final

Wednesday, June 12, 2019

6:00 PM

Cocoa City Council Chambers

City Council

I. OPENING MATTERS:

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL

II. APPROVAL OF AGENDA AND MINUTES:

AGENDA:

II.1 19-259 Approve the Agenda for the Regular meeting of June 12, 2019, as presented or with amendments.

Attachments: 06-12-19 Short Agenda.pdf

MINUTES:

II.2(a) 19-260 Approve the Minutes of the Regular meeting of April 24, 2019, as written or with amendments.

Attachments: 04-24-19 Minutes.pdf
EXHIBIT A-Letter submitted by Todd Riggs 001.pdf
EXHIBIT B-Zoning Text Amendment Indoor Shooting Range.pdf
EXHIBIT C-Vacation of Right of Way.pdf
EXHIBIT D-Statement provided by Councilmember Koss 001.pdf

II.2(b) 19-261 Approve the Minutes of the Regular meeting of May 8, 2019, as written or with amendments.

Attachments: 05-08-19 Minutes.pdf
EXHIBIT A: The POWER of Public Art City of Cocoa 10.pdf
EXHIBIT B: Photos provided by T. Stephan 001.pdf

III. AWARDS AND PRESENTATIONS:

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 five (5) minutes while speaking under Delegations. Delegations shall be limited to thirty (30) minutes unless extended by Council.

V. CONSENT AGENDA:

V.1 19-242 Approve a Resolution to Amend the FY19 Budget to Transfer Funds for an Emergency Repair on the High Service Pump #1 by Ring Power Corporation, Palm Bay, Florida, at the Dyal Water Treatment Plant. (Utilities Director)

Attachments:
- Ring Power's Estimate
- City Manager's email authorizing emergency repair
- Budget Resolution - HSP Repair
- BAF 19-093 -UT-High Speed Pump #1 (6-12-19) Agenda 19-242.pdf

V.2 19-244 Approve a Resolution to Amend the FY19 Budget to Transfer Funds to Purchase a Free Ammonia Analyzer from AWC, Inc., Tampa, Florida, for the Dyal Water Treatment Plant. (Utilities Director)

Attachments:
- Budget Resolution - Ammonia Analyzer
- Resolution - Sole Source -AWC, Inc.
- BAF 19-095 -UT-Free NH3 Analyzer (6-12-19) Agenda 19-244.pdf
- Ammonia SCan_1613740_6714.pdf

V.3 19-250 Approve a Resolution Waiving the Competitive Bidding Process for the Purpose of Making a Sole Source Purchase of a Dissolved Ozone Analyzer from S::Can Measuring Systems, LLC, North Attleboro, MA for the Dyal Water Treatment Plant; To Approve a Resolution to Amend the FY19 Budget with a Budget Transfer. (Utilities Director)

Attachments:
- Resolution SS - Ozone Analyzer
- SCan Quote
- SCan SS Letter
- Budget Resolution FY 2019 (rev 11-13-18)
- BAF 19-094 -UT-Ozone Analyzer (6-12-19) Agenda 19-250.pdf

VI. PUBLIC HEARINGS:

VI.1 19-238 Hold second and final public hearing to approve an Ordinance No. 03-2019 revoking the economic development ad valorem tax exemption granted to Cross Brands Manufacturing, L.L.C., and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, pursuant to the terms set forth in Ordinance No. 03-2019. (Community Services Director)

Attachments:
- Ordinance No. 03-2019 AVT Revocation - Cross Brands
- Notice of Termination - Grant Agt - Cross Brands
- Notice of Termination - Incentive Agt - Cross Brands
- Ad Valorem Tax Abatement Economic Incentive Agreement (Executed, recorde
- Economic Development Incentive Grant Agreement (fully executed, recorded)
- NOTICE OF PUBLIC HEARINGOrderConf2nd
- Proof of Legal Advertisement

VI.2 19-239 Hold second and final public hearing to approve Ordinance No. 05-2019 revoking the economic development ad valorem tax exemption granted to Diamondback CNC, LLC, and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, pursuant to the terms set forth in Ordinance No. 05-2019. (Community Services Director)

Attachments:
- Ordinance No. 05-2019 AVT Revocation - Diamondback
- Notice of Termination - Incentive Agt - Diamondback
- 08-2012 (Ad Valorem TAx Exemption)
- DiamondbackCNCLLC_Executed EDAgreement
- 2014-019 Economic Development Incentive Fund Program
- Proof of Legal Advertisement

VI.3 19-240 Hold second and final public hearing to approve Ordinance No. 06-2019 revoking the economic development ad valorem tax exemption granted to GeNO, LLC, n/k/a Vero Biotech, LLC and re-imposing the ad valorem taxes that were exempted for 2016, and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, who shall reissue a tax bill to GeNO for the taxable year of 2016, pursuant to the terms set forth in Ordinance No. 06-2019. (Community Services Director)

Attachments:
- Ordinance No. 06-2019 Revoke AVT Exemption GeNO
- Notice of Termination - Grant Agt - GeNO
- Notice of Termination - Incentive Agt - GeNO
- Economic Incentive Agreement (AVT) Project Taylor
- Economic Incentive Agreement (EDI Fund) Project Taylor
- Ord. 12-2015 (Project Taylor Ad Valorem Tax Exemption)
- 2nd reading AVT Revocation Ordinances 2019
- Proof of Legal Advertisement

VI.4 19-241 Hold second and final public hearing to approve Ordinance No. 07-2019 revoking the economic development ad valorem tax exemption granted to Paragon Plastics, Inc., n/k/a Trout Enterprise, Inc., and re-imposing the ad valorem taxes that were exempted for 2013, 2014, and 2015, and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, who shall reissue tax bills to Paragon for the 2013, 2014, and 2015 tax years, pursuant to the terms set forth in Ordinance No. 07-2019. (Community Services Director)

Attachments:
- Ordinance No. 07-2019 Revoke AVT Exemption Paragon
- 2014-018 (Ad Valorem Tax Ememptions)
- Notice of Termination - Incentive Agt - Paragon
- Executed Economic Incentive Agreement 2011
- Proof of Legal Advertisement

VI.5 19-263 Approve a Preliminary and Final Subdivision consistent with Chapter 18 Subdivisions and Appendix A Zoning of the City Code for Adamson Creek Phase 1B subject to conditions identified in the agenda item. (Community Services Director)

Attachments:
- Exhibit A - Adamson Creek Phase 1B final Plat 05-30-19
- Location Map - Adamson Creek Phase 1B
- Legal Ad Proof - Subdiv and Brightline DA

VI.6 19-264 Approve a Settlement Implementation Agreement between Virgin Trains USA Florida, LLC and the City of Cocoa to approve conceptual plans, an amenity schedule, and construction timeline for a residential subdivision, consistent with RU-1-7 zoning, and to authorize the City Manager to execute an excavation permit on the following property, commonly known as the former “Space Needle Property”, to implement that Stipulated Settlement Agreement, made and entered into December 11, 2007 and recorded in the Brevard County Official Records Book 5837, Page 2226: Parcel #: 24-35-10-00-3. (Community Services Director)

Attachments: Cocoa Borrow Pit Concept_Canal_2019.05.30
Cocoa Borrow Pit Concept_Osage_2019.05.30
Legal Description from Space Needle Contract
Legal Ad Proof - Subdiv and Virgin Trains DA
Brightline Residential Subdivision Project Development Agreement (CLEAN)_6-
Space Needle Stipulated Settlement Agreement

VII. COUNCIL BUSINESS:

VII.1 19-275 Acceptance of the Signed Addendum to Resolution No. 2002-08. (City Manager)

Attachments: 2002-008(Establishing a Code of Conduct for City Council Members).pdf
Signed Addendum to Resolution No. 2002-08.pdf

VIII. CITY BUSINESS:

VIII.1 19-218 Approval of Ordinance No. 08-2019/First Reading: Amending Chapter 2, Administration, Article VII Police Officers’ Retirement Plan of the Code by amending Section 2-193(a), Board of Trustees, extending the terms of office for the Board of Trustees from two years to four years. (Administrative Services Director)

Indexes: Pension; Retirement

Attachments: Ordinance No. 08-2019 Cocoa Police Pension

VIII.2 19-257 Award Bid #B-19-15-COC, Sellers WRF Sludge Valves Replacements (part of the Sludge Handling Improvements, Project No. WS19SS) to WPC Industrial Contractors, LLC, Jacksonville, Florida, in the Amount of $84,700; To Approve a Resolution Authorizing the City Manager to Approve Change Orders in an Amount Not To Exceed $8,470 (10% of the Contract Amount) for a Total Project Cost of $93,170; To Authorize the City Manager to Execute the Contract. (Utilities Director)

Attachments:
- B-19-15-COC FINAL MEMO
- B-19-15-COC Tabulation Sheet - Sludge Valves
- Bid B19-15-COC - Res Proj Contingency
- B-19-15 Form of Agreement WPC Signed

VIII.3 19-265 Approve an Increase to the City's Full Time Employee Headcount, within the Finance Department Utility Customer Service Division. (Finance Director)

VIII.4 19-262 Approval to accept the loan funds with conditions awarded from the Community Development Block Grant (CDBG) Section 108 Loan Guarantee Program; approve a Budget Resolution Amending the Fiscal Year 2019 Adopted Budget in the amount of $894,000 plus the 2.23% loan fee in the amount of $19,937; and authorize the Mayor to sign any certifications, documents and/or agreements related to the Section 108 Loan Guarantee. (Community Services Director)

Attachments:
- Budget Resolution No. 2019-050
- BAF 19-097 CDBG Sec 108 Loan.pdf
- BAF 19-099 -CS-Loan Fees (6-12-19)~ Agenda 19-262.pdf
- BAF 19-100 -CS-CDBG Loan Fees (6-12-19) Agenda 19-262.pdf
- Attachment A- Cocoa Approval Letter B-18-MC-12-0003
- Attachment B- HUD Form 7082 B-18-MC-12-0003 Cocoa FL HUD Form 7082
- Attachment C HUD-2880 Applicant_Recipient Disclosure_Update Report

VIII.5 19-278 Approve a Resolution Amending the FY 2019 Budget with the use of General Fund Balance Reserves, for the Dr. Joe Lee Smith Community Center Construction Project in Fiscal Year 2019, in the amount of $1,324,369. Additionally, these funds are expected to be reimbursed to the General Fund, during the course of the project or following the completion of the project. If reimbursement does not happen, the City will be ultimately responsible for the costs not reimbursed. (Community Services Director)

Attachments:
- Resolution 2019
- BAF 19-101-FN- GF Fund Balance (6-12-19)~ Agenda 19-278.pdf
- BAF 19-102 -FN-CDBG Fund Balance (6-12-19)~ Agenda 19-278.pdf

MULTI-YEAR CONTRACTS:

VIII.6 19-217 Accept Contractual Guaranteed Maximum Price (GMP) from W&J Construction in the amount of $4,550,013 for the Multi-Year, Multi-Phase Design Build (Fiscal Year 2019 and Fiscal Year 2020) of the Dr. Joe Lee Smith Community Center (RFQ 19-07-COC). Authorize the City Manager to finalize and execute the design-build contract with W & J Construction and issue a change order adding $4,379,869 to the original purchase order. Approve a Resolution Amending the FY2019 Budget. Approve a Resolution modifying Resolution No. 2019-004 regarding the guaranteed maximum price and project contingency amount for the Joe Lee Smith Project. (Public Works Director)

Attachments:
- $4,379,869 - Joe Lee Smith Construction GMP.pdf
- Budget Resolution FY 2019.docx
- Master Design Build Contract-cml.doc
- A141-2014 - Working Draft - 003 (DB Agreement)-cml.docx
- A141ExhibitA-2014 - Working Draft - 003 (DB Amendment)-cml.docx
- A141ExhibitB-2014 - Working Draft - 003 (Insurance and Bonds)-cml.docx
- BAF 19-098 -FN-WJ Construction (6-12-19)~ Agenda 19-217.pdf
- 2019-004 (Auth. CM to negotiate a GMP and enter contract with W _ J Constru
- Contingency Resolution.doc

IX. INFORMATIONAL AGENDA:

IX.1 19-258 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)

Attachments: Budget Classification Report April 2019 Funds 001-426.pdf

X. REPORTS:

XI. ADJOURNMENT

NOTICE TO THE PUBLIC:

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

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

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

Public debate by individual speakers from the audience on public hearing items shall be limited to three (3) minutes. Representatives of recognized groups shall be limited to ten (10) minutes; and total debate on a single issue shall be limited to thirty (30) minutes. Only one presentation per person per issue shall be allowed.

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

Legislation Details (With Text)

File #:	19-259	**Version:**	1	**Name:**	
Type:	Agenda			**Status:**	Agenda Ready
File created:	5/28/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	
Title:	Approve the Agenda for the Regular meeting of June 12, 2019, as presented or with amendments.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	06-12-19 Short Agenda.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: May 28, 2019
Agenda Date: June 12, 2019
Prepared By: Carie Shealy, City Clerk
Through:
Requested Action:
Approve the Agenda for the Regular meeting of June 12, 2019, 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 June 12, 2019, as presented or with amendments.

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AGENDA

CITY OF COCOA
REGULAR MEETING OF THE CITY COUNCIL

June 12, 2019

DATE: June 12, 2019	**LOCATION:** City Council Chambers
TIME: 6:00 p.m.	65 Stone Street, Cocoa

I. OPENING MATTERS:

Call to Order
Invocation
Pledge of Allegiance
Roll Call

II. APPROVAL OF AGENDA AND MINUTES:

1. Agenda: Regular Meeting of June 12, 2019 (19-259)
2. Minutes: (a) Regular Meeting of April 24, 2019 (19-260)
(b) Regular Meeting of May 8, 2019 (19-261)

III. AWARDS AND PRESENTATIONS:

None.

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 five (5) minutes while speaking under Delegations. Delegations shall be limited to thirty (30) minutes unless extended by Council.

V. CONSENT AGENDA:

1. Approve a Resolution to Amend the FY19 Budget to Transfer Funds for an Emergency Repair on the High Service Pump #1 by Ring Power Corporation, Palm Bay, Florida, at the Dyal Water Treatment Plant. (19-242). (Utilities Director)

2. Approve a Resolution to Amend the FY19 Budget to Transfer Funds to Purchase a Free Ammonia Analyzer from AWC, Inc., Tampa, Florida, for the Dyal Water Treatment Plant. (19-244). (Utilities Director)

3. Approve a Resolution Waiving the Competitive Bidding Process for the Purpose of Making a Sole Source Purchase of a Dissolved Ozone Analyzer from S::Can Measuring Systems, LLC, North Attleboro, MA for the Dyal Water Treatment Plant; To Approve a Resolution to Amend the FY19 Budget with a Budget Transfer. (19-250). (Utilities Director)

VI. PUBLIC HEARINGS:

1. Hold second and final public hearing to approve Ordinance No. 03-2019 revoking the economic development ad valorem tax exemption granted to Cross Brands Manufacturing, L.L.C., and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, pursuant to the terms set forth in Ordinance No. 03-2019. (19-238). (Community Services Director)

2. Hold second and final public hearing to approve Ordinance No. 05-2019 revoking the economic development ad valorem tax exemption granted to Diamondback CNC, LLC, and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, pursuant to the terms set forth in Ordinance No. 05-2019. (19-239). (Community Services Director)

3. Hold second and final public hearing to approve an Ordinance No. 06-2019 revoking the economic development ad valorem tax exemption granted to GeNO, LLC, n/k/a Vero Biotech, LLC and re-imposing the ad valorem taxes that were exempted for 2016, and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, who shall reissue a tax bill to GeNO for the taxable year of 2016, pursuant to the terms set forth in Ordinance No. 06-2019. (19-240). (Community Services Director)

4. Hold second and final public hearing to approve Ordinance No. 07-2019 revoking the economic development ad valorem tax exemption granted to Paragon Plastics, Inc., n/k/a Trout Enterprise, Inc., and re-imposing the ad valorem taxes that were

exempted for 2013, 2014, and 2015, and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, who shall reissue tax bills to Paragon for the 2013, 2014, and 2015 tax years, pursuant to the terms set forth in Ordinance No. 07-2019. (19-241). (Community Services Director)

5. Approve a Preliminary and Final Subdivision consistent with Chapter 18 Subdivisions and Appendix A Zoning of the City Code for Adamson Creek Phase 1B subject to conditions identified in the agenda item. (19-263). (Community Services Director)

6. Approve a Settlement Implementation Agreement between Virgin Trains USA Florida, LLC and the City of Cocoa to approve conceptual plans, an amenity schedule, and construction timeline for a residential subdivision, consistent with RU-1-7 zoning, and to authorize the City Manager to execute an excavation permit on the following property, commonly known as the former "Space Needle Property", to implement that Stipulated Settlement Agreement, made and entered into December 11, 2007 and recorded in the Brevard County Official Records Book 5837, Page 2226: Parcel #: 24-35-10-00-3. (19-264). (Community Services Director)

VII. COUNCIL BUSINESS:

1. Acceptance of the Signed Addendum to Resolution No. 2002-08. (19-275). (City Manager)

VIII. CITY BUSINESS:

1. Approval of Ordinance No. 08-2019/First Reading: Amending Chapter 2, Administration, Article VII Police Officers' Retirement Plan of the Code by amending Section 2-193(a), Board of Trustees, extending the terms of office for the Board of Trustees from two years to four years. (19-218). (Administrative Services Director)

2. Award Bid #B-19-15-COC, Sellers WRF Sludge Valves Replacements (part of the Sludge Handling Improvements, Project No. WS19SS) to WPC Industrial Contractors, LLC, Jacksonville, Florida, in the Amount of $84,700; To Approve a Resolution Authorizing the City Manager to Approve Change Orders in an Amount Not To Exceed $8,470 (10% of the Contract Amount) for a Total Project Cost of $93,170; To Authorize the City Manager to Execute the Contract. (19-257). (Utilities Director)

3. Approve an Increase to the City's Full Time Employee Headcount, within the Finance Department Utility Customer Service Division. (19-265). (Finance Director)

4. Approval to accept the loan funds with conditions awarded from the Community Development Block Grant (CDBG) Section 108 Loan Guarantee Program; approve a Budget Resolution Amending the Fiscal Year 2019 Adopted Budget in the amount of $894,000 plus the 2.23% loan fee in the amount of $19,937; and authorize the Mayor to sign any certifications, documents and/or agreements related to the Section 108 Loan Guarantee. (19-262). (Community Services Director)

5. Approve a Resolution Amending the FY 2019 Budget with the use of General Fund Balance Reserves, for the Dr. Joe Lee Smith Community Center Construction Project in Fiscal Year 2019, in the amount of $1,324,369. Additionally, these funds are expected to be reimbursed to the General Fund, during the course of the project or following the completion of the project. If reimbursement does not happen, the City will be ultimately responsible for the costs not reimbursed. (19-278). (Community Services Director)

MULTI-YEAR CONTRACTS:

6. Accept Contractual Guaranteed Maximum Price (GMP) from W&J Construction in the amount of $4,550,013 for the Multi-Year, Multi-Phase Design Build (Fiscal Year 2019 and Fiscal Year 2020) of the Dr. Joe Lee Smith Community Center (RFQ 19-07-COC). Authorize the City Manager to finalize and execute the design-build contract with W & J Construction and issue a change order adding $4,379,869 to the original purchase order. Approve a Resolution Amending the FY2019 Budget. Approve a Resolution modifying Resolution No. 2019-004 regarding the guaranteed maximum price and project contingency amount for the Joe Lee Smith Project. (19-217). (Public Works Director).

IX. INFORMATIONAL AGENDA:

1. Data showing the relation between the estimated and actual income and expenses to date. (19-258). (Finance Director)

X. REPORTS:

Advisory Boards and Committees
City Administration

City Attorney
City Manager
City Council

XI. ADJOURNMENT.

NOTICE TO THE PUBLIC:

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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.

Legislation Details (With Text)

File #:	19-260	**Version:**	1	**Name:**	
Type:	Minutes			**Status:**	Minutes
File created:	5/28/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	
Title:	Approve the Minutes of the Regular meeting of April 24, 2019, as written or with amendments.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	04-24-19 Minutes.pdf EXHIBIT A-Letter submitted by Todd Riggs 001.pdf EXHIBIT B-Zoning Text Amendment Indoor Shooting Range.pdf EXHIBIT C-Vacation of Right of Way.pdf EXHIBIT D-Statement provided by Councilmember Koss 001.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: May 28, 2019
Agenda Date: June 12, 2019
Prepared By: Carie Shealy, City Clerk
Through:
Requested Action:
Approve the Minutes of the Regular meeting of April 24, 2019, as written or with amendments.

BACKGROUND:

NA

STRATEGIC PLAN CONNECTION:

NA

BUDGETARY IMPACT:

NA

PREVIOUS ACTION:

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

RECOMMENDED MOTION:
Approve the Minutes of the Regular meeting of April 24, 2019, as written or with amendments.

MINUTES

CITY OF COCOA
REGULAR MEETING OF THE CITY COUNCIL

April 24, 2019

A Regular City Council Meeting was held on Wednesday, April 24, 2019, in Cocoa City Hall, in City Council Chambers, located at 65 Stone Street, in Cocoa, Florida, 32922, as publicly noticed.

I. OPENING MATTERS:

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

Councilmember Goins introduced Dr. Juana Bostick who provided the invocation, and Councilmember Goins led the assembly in the Pledge of Allegiance to the Flag of the United States of America.

The City Clerk took the roll.

PRESENT:	Jake Williams, Jr.	Mayor
	Don Boisvert	Councilmember
	Alex Goins	Councilmember
	Lorraine Koss	Councilmember
	Anthony Garganese	City Attorney
	John A. Titkanich, Jr.	City Manager
	Matt Fuhrer	Assistant City
	Carie Shealy	City Clerk
ABSENT:	Brenda Warner	Deputy Mayor

OTHER STAFF MEMBERS PRESENT:

Lorne Stinnett, Acting Administrative Services Director/ Human Resources Director; Jack Walsh, Utilities Director; Nancy Bunt, Community Services Director; Mike Cantaloupe, Chief of Police; Jonathan Lamm, Acting/Deputy Fire Chief; Ed Wegerif, Public Works Director; Rebecca Bowman, Finance Director; Jason McCuen, Helpdesk Support Technician; Dodie Selig, Planning Manager; Angela Essing, Senior Planner; and Gary Palmer, Facilities Manager.

II. APPROVAL OF AGENDA AND MINUTES:

1. Agenda: Regular Meeting of April 24, 2019 (19-167)
2. Minutes: (a) Regular meeting of March 13, 2019 (19-168)

City Manager Titkanich requested for the agenda to be amended by doing the following: Removing Item III.2; Move Consent Item V.2 to City Business VIII.4; Add Item VIII.5 (acceptance of a fire grant); and remove Item VII.2 (as this item is being revised).

* **MOTION by Councilmember Boisvert; Seconded by Councilmember Koss, to approve the Agenda as amended for the regular meeting of April 24, 2019.**

AYES: Williams, Boisvert, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

* **MOTION by Councilmember Boisvert; Seconded by Councilmember Goins, to approve the Minutes as written for the Regular meeting of March 13, 2019.**

AYES: Williams, Boisvert, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

III. AWARDS AND PRESENTATIONS:

1. Presentation/Performance by the Cocoa High School Chorus. (19-169). (Councilmember Koss)

Mayor Williams advised that Councilmember Koss has been involved with this presentation. Councilmember Koss introduced the Cocoa High School Chorus and their teacher, Dr. Misty Martinez. She pointed out that they have been invited to perform at Carnegie Hall for the 9/11 celebration. The choir performed songs for the assembly. In closing, Councilmember Koss further introduced the Cocoa High School Principal, Mr. Rachad Wilson and announced that Stacie Hawkins-Smith with the Cocoa Village Playhouse is working on a date for a concert for the chorus.

~~2. Presentation of Certificate of Completion to Deputy Mayor Warner for the IEMO III: The Leadership Challenge, through Florida League of Cities, March 1-2, 2019. (19-170). (Mayor Williams)~~

IV. DELEGATIONS:

Connie Harvey and Pam Shaia, 308 Brevard Avenue in Cocoa, and 29 Riverside Drive #601, in Cocoa, invited Council to attend Giving Tuesday. This event started about four months ago by the Village Merchant's Association. They have been pairing up with the Food and Beverage Association and it is a ticketed event. They have paired up with Ryan's Pizza on the first Tuesday of the month from 5-7 p.m. The money raised will go to Community First.

Connie Harvey spoke about drowning and noted they were in partnership with Brevard County Parks and Recreation to help children learn the basics of swimming. Children will be transported to the Joe Lee Smith Recreation Center pool. She hoped Council would participate in some of the programs.

Melissa Martin, 5404 Brilliance Cocoa, advised that she is currently involved with civility in Brevard, and is trying to regrow civil discourse, even with those who oppose each other, as many times this is on a personal level. She is trying to bring back skills that may have been forgotten and reinstitute that as the normal. She is a big believer in trickle down leadership but not trickle down economics. Due to issues being brought up at meetings she is hoping that this can begin in Cocoa and that Cocoa commits to civility. She feels it is important to make a public statement.

Linda Dolphin, 2100 N. Indian River Drive, read a letter into the record written by Todd Riggs[1] and sent to the City Manager and Council members in February.

Sam Clayborn, Cocoa Youth Athletics, Inc., thanked Council for the donation to the league. He was born and raised in Cocoa, and grew up in the projects. He played at the Cocoa Youth Football Field. The relationship that he had with his coaches helped him become a productive citizen. There are several issues at the field and although they have taken the right steps to get them rectified, nothing is happening. He asked if the City could get in touch with the right people to get things moving, as the season is about to start.

[1] EXHIBIT A: Letter submitted by Todd Riggs (read by Linda Dolphin)

Councilmember Goins asked who he was communicating with at Brevard Park and Rec. Ms. Phillips stated the name was Tucci. Ms. Phillips further noted that every other field has been upgraded except for Stradley Park. They are doing what they can to patch things up but they are not getting anywhere.

Mayor Williams appreciated all that they do and those are some of the inequities seen around the community. He assured them both that the City is aware of the problems and will talk with the powers that be.

Councilmember Goins pointed out that there have been several conversations between the Assistant City Manager and the County about parks.

Assistant City Manager Fuhrer stated that when this organization submitted their donation application he went out and looked at the facility. The press box and field conditions are bad, but there are minor things that can be fixed for the time being. They are working on a maintenance agreement.

Jennifer Kenny, 1917 Quail Ridge Court #1901, Cocoa, thanked Council for allowing her to share her opinion at council meetings. She spoke about her attendance of meetings at the state level. She is confident that state legislators understand that we are all in this together and must find common ground to work together. She noted that unlike Cocoa's non-partisan council there are two parties at the state level. She spoke about the decorum exuded among all members of the state. Good manners were used. She hoped that this council could take note from the state legislature.

V. CONSENT AGENDA:

1. Approve City Manager's execution of Notice of Forfeiture of Commercial Property Enhancement Program Grant previously awarded to 1003 N Cocoa LLC. (19-153). (Community Services Director)

~~2. Approve a Resolution amending the FY2019 Budget to Transfer Funds for Purchase Order #73716 and #73649 to Garganese, Weiss, D'Agresta, & Salzman to Cover Estimated Non-Retainer Costs for the Remainder of FY 2019, through the use of General Fund Contingency. (19-156). (Administrative Services Director)~~

*** MOTION by Councilmember Boisvert; Seconded by Councilmember Koss, to approve the Consent agenda.**

AYES: Williams, Boisvert, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

VI. PUBLIC HEARINGS:

1. Pass on First Reading Ordinance No. 04-2019: A Zoning Text Amendment to allow indoor shooting ranges as a permitted use subject to certain conditions, including ancillary retail sales and restaurant in the M-2 (Manufacturing and Industrial) Zoning District. (19-157). (Community Services Director)

Attorney Garganese read Ordinance No. 04-2019 into the record, by title only, as follows. He advised that this was the first reading of the ordinance.

ORDINANCE NO. 04-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A, ARTICLE XI, SECTION 19 OF THE ZONING ORDINANCE OF THE CITY OF COCOA TO ALLOW INDOOR SHOOTING RANGES AS A PERMITTED USE SUBJECT TO CERTAIN CONDITIONS, INCLUDING ANCILLARY RETAIL SALES AND RESTAURANT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

Ms. Selig provided a presentation[2] and provided a project summary in detail, pointing out that the applicant is requesting to amend Appendix A, Article XI, Section 19 of the code to allow an indoor shooting range, with ancillary retail sales and a restaurant, as a principle use with conditions in the M-2 (Manufacturing and Industrial) Zoning District.

She further pointed out that the amendment was precipitated by a project proposed for an indoor shooting range that would include a retail store component as well as a restaurant. There are similar establishments in Melbourne and Volusia County.

She reviewed the consistency with the City Code and Comprehensive Plan policies and objectives.

[2] EXHIBIT B: Zoning Text Amendment Indoor Shooting Range Use in M-2

The Planning and Zoning board recommended approval at their meeting on April 9, 2019 and provided the recommended motion.

Mayor Williams mentioned that if you were in attendance at the Planning and Zoning Board meeting than every question you could imagine was asked. He was very impressed with the Board at that meeting.

Councilmember Koss mentioned that this also includes a restaurant that serves beer and wine. She asked if there was anyone else who does that. Ms. Selig replied in the affirmative and mentioned there was one in Melbourne called Frog Bones and one in Volusia County called Top Shot, which are both the same model.

Mayor Williams noted that there are a lot of checks and balances due to insurance.

Bob Scales, 111 Cleveland Avenue, Cocoa Beach, assured Council that the difference in this type of establishment is that the staff is trained to look for things out of the ordinary with customers. If anyone has a drink their hand is stamped prior to going into the range and everyone's license is scanned prior to going in as well. Secondarily, the staff is trained to look for any type of impairment, not just alcohol impairment. It is something that everyone is focused on.

Mayor Williams opened the hearing to the public.

Michael Harner, 31 Derby Street, Cocoa, thought that it being soundproof was not enforceable and felt it should be changed.

Mr. Scales agreed that sound is a concern. He spoke about the similar types of ranges and noted there are three in a fifty-mile radius, all of which are adjacent to residential areas. They are all soundproof as well as the roof. You can walk by the facility and not hear anything. Sound is always a consideration and design element of the facility.

There being no further comments, the public portion of the hearing was closed.

* **MOTION by Councilmember Boisvert; Seconded by Councilmember Goins, to approve Ordinance No. 04-2019: A Zoning Text Amendment to allow indoor shooting ranges as a permitted use subject to certain conditions,**

including ancillary retail sales and restaurant in the M-2 (Manufacturing and Industrial) Zoning District on First reading.

AYES: Williams, Boisvert, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

2. Postpone consideration of the Large-Scale Site Plan for the Dr. Joe Lee Smith Community Center. (19-158). (Community Services Director)

Ms. Bunt advised that staff would be bringing this item back before the Planning and Zoning Board, as there were issues related to stormwater. This item will be re-advertised prior to the hearing.

* **MOTION by Councilmember Boisvert; Seconded by Councilmember Koss, to Postpone consideration of the Large-Scale Site Plan for the Dr. Joe Lee Smith Community Center.**

AYES: Williams, Boisvert, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

VII. COUNCIL BUSINESS:

1. Approve a Resolution providing for a temporary waiver of building permit fees related to building or structural damage caused by the hail storm that occurred on March 27, 2019. (19-161). (Community Services Director)

* **MOTION by Councilmember Boisvert; Seconded by Councilmember Koss, to approve the item.**

AYES: Williams, Boisvert, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

~~2. Approve a Resolution providing for a temporary waiver of building permit fees related to the installation of solar photovoltaic, solar water heating, electric vehicle home charging, natural gas vehicle home refueling systems and electric vehicle charging stations for a period of one year. (19-162). (Community Services Director)~~

VIII. CITY BUSINESS:

1. Approve Resolution 2019-030 Vacating a portion of Right-of-Way of Riverside Drive. (19-159). (Community Services Director)

Ms. Selig provided a presentation[3] advising that St. Mark's Church is requesting the vacation of a portion of the right-of-way of Riverside Drive. She showed a map of the request and mentioned that the church presently owns the parcel of land abutting this section of the right-of-way as well as the parcel on the north side of Church Street where the church and school buildings are located.

Ms. Selig further advised that the City does need to retain a utility easement over the right-of-way in order to maintain City water, sewer, and re-use facilities.

Councilmember Koss asked if this would still allow for public access in that corridor as people ride their bikes and all there. Ms. Selig responded in the affirmative and pointed out that this is just a grassy area.

Councilmember Koss asked how this was impacted by the storm. Assistant City Manager Fuhrer advised that in that specific corner there were a few vessels that came to shore and there was a lot of vegetation, but no other failures associated with it.

Councilmember Koss believes that what they are planning to do is attractive, but it does block the public view somewhat.

Councilmember Goins asked what was being proposed and in response, Ms. Selig stated that the church was looking to build an open-air type of chapel. It would have arches and wrought iron gates so that you could see through the building to the river. It is complimentary to the design they have now.

* **MOTION by Councilmember Goins; Seconded by Councilmember Boisvert, to approve Resolution 2019-030, vacating a portion of Right-of-Way of Riverside Drive.**

Mr. Ed Green, 104 Riverside Drive, Cocoa, asked about the exhibit that was shown and that his question is in regards to the northern line along Church Street. There is a sidewalk now and he wondered if the sidewalk laid within the area is being vacated.

[3] EXHIBIT C: Vacation of Right-of-Way a portion of Riverside Drive presentation

Rodney Honeycutt, representing the church, assured Mr. Green that the sidewalk was outside of the area. He confirmed that there would be no impact to the sidewalk with or without vacation.

AYES: Williams, Boisvert, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

2. Approve a resolution endorsing the East Coast Greenway route through Cocoa, FL. (19-79). (Public Works Director)

Mr. Wegerif mentioned the Space Coast TPO is responsible for long range planning of trails and they now have a realignment of the East Coast Greenway Trail.

He explained that they are trying to connect the trails and this portion comes through Cocoa. The “preferred” route proposed will extend south from Titusville to SR 528 along US 1. It would then extend east from Cocoa to Port Canaveral along the future trail planned adjacent to SR 528 as part of the widening project.

Public Works staff reviewed the route and proposed an alternate “preferred” route that would extend south from Titusville along Grissom Parkway to Industry Road, along Clearlake Road, and then east on Michigan Avenue to US 1, and then north to where it would connect to the proposed SR 528 trail.

Cocoa’s preferred route has been accepted by the SCTPO staff and is being presented to Council for approval. The US 1 route will now be the alternate route.

Mayor Williams stated this planning has been going on for a while.

Councilmember Koss asked if there were any state or federal funds or grants for this. In response, Mr. Wegerif advised that there were some through the state.

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

AYES: Williams, Boisvert, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

3. Request Council's Direction for the final design concept of the Promenade and Overlooks Project to replace the boardwalk in Riverfront Park destroyed during Hurricane Irma. (19-165). (Public Works Director)

Mr. Wegerif advised that Tom Vill from Infrastructure Solutions was present to provide a brief presentation for the final concept proposal for the promenade.

Mr. Vill provided a background of the project and mentioned that the promenade was discussed during the Waterfront Master Plan Update in 2018. A few key elements were discussed at that time.

He further pointed out that a public meeting was held in November to review some of the concepts for the promenade.

He discussed some of the key design input and noted that coming out of the meeting there was a desire to have a combination of both hard scaping and land scaping so that it would not look too industrial. There was a lot of discussion on what type of railing would be used. There was also preference shown to enhance the visibility and the preference was a stainless steel railing which is very good for weathering and provides an opportunity for signage.

Mr. Vill stressed that ADA compliance also had to be considered while designing this.

He advised that the drawings being shown tonight were higher resolution than provided in the agenda packet. Additionally, at the public meeting it was brought to their attention that there is a company in Cocoa that fabricates wrought iron railings and they were very helpful in designing this concept.

Mr. Vill mentioned that the landscaping was not final and just a rendering but stressed that they want low landscaping. Lastly, he showed the sign concept. It can be lighted or whatever they want it to be. The signage provides for a good marker and serves a second purpose as a wall. There were concerns that the cabled railing was around the fountain area where kids are running around. Landscaping could also be placed around the wall.

Councilmember Koss asked about the Cocoa company and if this was the only type of railing that they fabricate. Mr. Vill responded in the negative.

Councilmember Koss asked if the herringbone was permeable. He advised it was stamped. He noted that the orange area was the existing pavers and it is a herringbone stamped in concrete. This was done as a cost consideration. He would not recommend permeable pavers although he loves them, but in this location, behind the seawall, he would not recommend them.

She further asked about the stormwater. In response, Mr. Wegerif explained that there were some conceptual ideas to do something in the river and mentioned that one idea is at the south end of this project. They are looking at doing something beyond this promenade and extending outward, however, we are still in the early stages.

Further discussion was held on the seawall and stormwater.

Councilmember Koss stated that she does not like the fence and she was at the meetings. There was a number of citizens who liked a different wall. She feels that this design looks hot. She also pointed out that they were forming a waterfront committee and asked if this is something that they should be doing.

In response, City Manager Titkanich advised that the City was under a time constraint due to FEMA and a FIND grant. Any material alterations could jeopardize the grant.

City Manager Titkanich recollected that it was his understanding that the majority of the vote was for the cabling.

Mr. Vill added that the concern with the wall was visibility and the other was people sitting on the wall and falling off. There were a lot of different opinions in the room, but when narrowed down this railing was the preferred option. An informal vote was taken and about fifteen were for it and about nine were for other things.

Mayor Williams is worried about the liability and not having protection due to all of the events in the park.

City Manager Titkanich mentioned that the July 4th event people can get as close as they can to the water's edge.

Councilmember Koss asked where the utilities were located. In response, Mr. Vill explained that they were under the pavement and was hoping to move all of the access points into the landscaped areas.

Councilmember Koss thought that this would also give the additional option of moving some of the festivals off of the streets and into the park.

Councilmember Boisvert clarified that it was wide enough to get an emergency vehicle in the area. Staff answered in the affirmative.

Troy Stephan, 415 Delannoy Avenue, Cocoa, provided his perspective on this project and agrees with some of the councilmembers that it looks cold and industrial. He would like to keep a feeling of connection to the waterfront and he feels this gives a feeling of disconnection. There are designs with knee walls and

there are only a couple of events a year where the larger railings could be put up for protection. He likes the idea of the sign but would like a feeling of more oneness with the water. The water in that area is only two to three feet high so it is not a huge issue.

Aleck Greenwood, 640 Brevard Avenue, Cocoa, was at the meeting and does not remember a lot of support for the industrial look. He thought it was agreed for a softer look. He agreed with Mr. Stephan that there needs to be a connection between the water and the Village. Costs were less expensive with the simulated bricking. He also recalled that the majority voted for the large individual paver look with grass between.

Mr. Vill agreed that it was discussed but it was not the majority vote and does not meet ADA compliance.

Mr. Greenwood asked if the existing pavers were ADA compliant and feels that this could be matched throughout the village. He thought it would look a lot better if everything matched.

Councilmember Koss showed pictures of other city's waterfronts. These photos included the cities of Sanford, Bradenton, Fort Pierce, and New Smyrna.

City Manager Titkanich asked if there was a way to make the railing more curved or a way to soften it up. He further noted that the one difference was that there was not a band shell where community events are held in the photos that were shown. Mr. Vill advised that they will design what the City wants.

Mr. Vill noted that one of the issues with the knee wall was the visibility of the park from the water and that this was not a big focus of his. He feels that they have addressed the direction but they want the end product to be what the City wants.

Councilmember Koss asked if there was a way to fast track the waterfront advisory committee. In response, City Manager Titkanich reiterated that this is a FEMA reimbursement project and not an enhancement project. Additionally, Assistant City Manager Fuhrer pointed out that they applied for an extention but the deadline has passed and anticipated that an agenda item for the t-dock and day slips will be brought forth at an upcoming meeting.

Mayor Williams clarified that staff needs direction. Assistant City Manager Fuhrer responded in the affirmative and mentioned that they are attempting to move to a final design so that this can go out for bid.

Mayor Williams clarified that this can be approved and then alterations can be made. Assistant City Manager Fuhrer advised that alterations will be needed now.

Mr. Vill advised that landscape changes can be done but for a knee wall design they will need time, at least a couple of weeks.

City Manager Titkanich stated that they just verified that they have less than one year for this to be completed. He also stated that liability was a concern and that they were asked to be more resilient so that we were not faced with the same issues as last time. He stressed the need to be storm resilient while trying to incorporate design features.

Mr. Vill clarified that a new design would be with a knee wall. He stressed that if the change was just a knee wall he could bring something back in two to three weeks, but he will not show something that will not work. Additionally, with the t-dock and day slips there is a walk way going from this area to Lee Wenner Park. The walk way has the same railing and asked if this was also an issue. Councilmember Koss stated she would have much less of an issue with that.

Mr. Vill confirmed that he would design with the knee wall and will keep the railing on the overlooks if that was okay.

* **MOTION by Councilmember Koss; Seconded by Councilmember Goins, to accept the design, but replace the railing with an alternate design that incorporates a knee wall.**

AYES: Williams, Boisvert, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

Assistant City Manager Fuhrer confirmed the timeline and mentioned the May 22nd Regular meeting. Mr. Vill stated he would try to make the deadline of June 12, 2019.

4. Approve a Resolution amending the FY2019 Budget to Transfer Funds for Purchase Order #73716 and #73649 to Garganese, Weiss, D'Agresta, & Salzman to Cover Estimated Non-Retainer Costs for the Remainder of FY 2019, through the use of General Fund Contingency. (19-156). (Administrative Services Director)

City Manager Titkanich advised that the reasoning behind this item is that there have been two incidents not covered by the retainer and they have vigorously covered unemployment filings with the Menendez case. The attorney's office also represented them during the arbitration regarding his termination. There was also a case on Indian River Drive regarding a tiny home that they were dealing with as well.

He also assured Council that they monitor the retainer and non-retainer costs throughout the year.

Councilmember Koss asked what is covered in the retainer and asked if when comparing to other years did they notice a trend. She further asked how we compare in attorney fees to other cities.

Attorney Garganese explained that the retainer includes bond closings, employment matters, code enforcement proceedings, etc.

Everything else is in the non-retainer fees and sometimes they put these into non-retainer as a courtesy to the City. They are at full service and provide all services except for pensions and bond deals.

As far as trends they cannot predict non-retainer items. They are on an as needed basis and in addition to what the City Manager mentioned they had to initiate seventeen foreclosure actions and several for code. They recovered over $85,000 and ten properties have been collected.

Furthermore, trend wise, on retainer, within the last few years the work load has gone up 46.5% and the CPI adjustment does not keep up with that. There has been a substantial rise on retainer items partly due to economy and development items.

Attorney Garganese pointed out that the City is doing a good job in the retainer fees.

* **MOTION by Councilmember Koss; Seconded by Councilmember Boisvert, to approve the item.**

AYES: Williams, Boisvert, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

5. Approval a Resolution Amending the FY2019 Budget and Council approval to authorize the City Manager to accept and execute the Overdose Prevention in States (OPIS) Cooperative Agreement Grant in the amount of $36,650. (19-179). (Deputy Fire Chief)

Deputy Chief Lamm explained that this item was for acceptance of a grant that the Fire Department was awarded. They were requesting to amend the budget. EMS equipment will be brought up to date with these funds.

*** MOTION by Councilmember Boisvert; Seconded by Councilmember Koss, to approve the item.**

AYES: Williams, Boisvert, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

MULTI-YEAR CONTRACTS:

6. Approve a New Lime Stockpile Agreement between the City of Cocoa and Agreserves, Inc. dba Deseret Cattle & Citrus; To Authorize the City Manager to Execute the Agreement. (19-146). (Utilities Director)

Mr. Walsh advised that the City had a previous agreement that has expired and they took this opportunity to renew the agreement with the ranch. He explained how the lime cleans the water and the bi-product is favorable for agricultural operations.

Councilmember Koss stated that this process was discussed at the Utilities Advisory Board meeting.

*** MOTION by Councilmember Koss; Seconded by Councilmember Boisvert, to approve the item.**

AYES: Williams, Boisvert, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

IX. INFORMATIONAL AGENDA:

1. 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. (19-131). (Finance Director)

2. Cumulative purchase approvals over $35,000 and under $50,000 for period 10/01/2018 to 03/31/2019. (19-138). (Finance Director)

X. REPORTS:

Rip Dyal, Chairman of Board of Adjustment, spoke on behalf of the board and mentioned that recently a few people have resigned. There are only five active

members currently. He asked that the City advertise the vacancies and thought that the Cocoa High School Chorus was amazing.

City Attorney Garganese reiterated an earlier comment noting that the City received a favorable ruling on the tiny home case on Indian River Drive, so they will be working with staff on that.

City Manager Titkanich thanked everyone for the well wishes while he was out.

He reminded Council that he had sent an email with a spreadsheet for them to list their priorities on. He has only received one and has already spoken with that council member.

He also spoke in regards to the email sent by Mr. Riggs. He assured Council that he would provide the information to him.

City Manager Titkanich informed Council that he was not a scholarship recipient for the institute that he applied for.

He spoke in regards to civility and the issues that were brought up by Ms. Martin. He advised that he watched the last meeting and spoke with the City Attorney afterwards. One item that came up was that there is an existing civility resolution that is in effect and there is a section that essentially requires all current members of Council to affix their signature to the resolution.

Mayor Williams understands that they have a resolution and things that had been said at that meeting were not true. They were asked to investigate what was said and bring it back to Council. He believes that the public needs to know the truth. If staff is requested to investigate statements made then the results need to be made known. He knows that one allegation was investigated the next day.

City Manager Titkanich mentioned that per the Charter, any issues brought up are to be investigated by him. He assured Council that a statement was received by an employee and it was verified that there were no conversations exchanged other than a hello and a goodbye. Outside of that, he will pursue the other issues under his powers of the Charter, as his directors and employees have a responsibility like everyone to uphold the Charter with regards to directions given by someone other than their director or the City Manager.

Mayor Williams stated that there was an issue with him giving direction. He has never done that and if he has ever had an issue he has gone directly to the City Manager or Assistant City Manager. He shows pictures and asks that issues be looked into. He apologized for his actions at the last meeting and wished that things could have been handled differently. There were things going on that could not be discussed but results are back and that will be turned over to the City Clerk so that it can be public record.

City Manager Titkanich advised that he had spoken with an employee and will take care of the other employee issues and looks forward to a continuous working relationship with Council.

Councilmember Koss asked if the statement provided by the employee exonerates her, and in response, City Attorney Garganese advised that it is a public record. If she would like she can submit it to the City Clerk as part of the meeting.

Councilmember Koss provided the City Clerk with the statement for the record[4].

Mayor Williams thanked everyone for being in attendance tonight and stated that they have been very busy trying to move the City forward. He appreciates Councilmember's Koss and Goins more than they can imagine. Being newly elected, they are taking on new issues and crossing paths in a lot of things that are being done. He is not trying to disregard anyone else on Council but seeing them work and the support they have all received is unreal.

He has been visiting City parks on a weekly basis and was very impressed with the Easter event at Provost Park. He was extremely impressed with the security they had. It was great event. There is a lot of work that needs to be done at the parks and his concern is that the same level of service be provided to the parks as it is the rest of the City.

His goal is to bring everyone together as there is a divide and it is based on positions.

Mayor Williams announced that the City received an award for the Mayor's Fitness Challenge. He thanked Patrick Air Force Base for the Black History Month event that he attended. He spent eight years in the Air Force and getting to sit with the General was a nice experience. He was treated like royalty. L

[4] EXHIBIT D: Statement provided by Councilmember Koss

Lastly, he spoke of his attendance today at the Kennedy Space Center where he got to hear an update about the Center's future. It was a great event as well.

Councilmember Koss noted that there is a lot going on with the Indian River Lagoon and the County Commissioners. She attended a meeting and was happy to see Abby Diaz in attendance. She hoped to see someone from the waste water department attend in the future at those meetings. Additionally, she stated that there seem to be some available funds at the state level.

She announced that this Saturday, April 27, 2019 is "Healthy Child's Day" at the YMCA from 10 a.m. until 1 p.m.

Councilmember Goins thanked everyone for being in attendance and for listening at home.

He mentioned that he has received about forty to fifty emails from employees regarding the City moving to a bi-weekly payroll. He would like to address this issue and is wondering if there has been any miscommunication.

City Manager Titkanich noted that first and foremost the payroll policy is in the employee handbook and any changes would have to come before Council for approval. He advised that during contract conversations this had been discussed but there is nothing being done at this time. Staff is looking at pros and cons and the implementation and/or timeline has not been set. Someone jumped the gun as a comment was made at a meeting, and word got around like this was happening in May. This is not the case.

Councilmember Goins wanted the information on the record since he received so many emails. An email like that will spread and you do not play with employees' paychecks.

He spoke of a visit to Hannibal Square Heritage Center where he met with Barbara Chandler. She is willing to provide guidance with the Leon and Jewel Collins Museum. He hopes to take a trip with all of Council and staff in a month or so. He felt there needed to be a plan put in place for the Leon and Jewel Collins Museum.

Councilmember Goins further voiced concerns about the old Joe Lee Smith Center and pointed out that people want to ensure that it is not a retention pond.

In response, City Manager Titkanich advised that an analysis of the existing building would be done before anything is done. Brevard County Parks and Recreation is not favorable of having two buildings.

Councilmember Goins stated that there are a few of the 501 C3's willing to come in.

Additionally, City Manager Titkanich advised that they want to do their due diligence because the City cannot hand over something that could cause health or environmental conditions.

Lastly, Councilmember Goins spoke about emails that were received form Ms. Pickle regarding an Airbnb. He asked for an update on legislation regarding Airbnb's.

In response, City Manager Titkanich advised that the legislation has passed the House but he was not sure about the Senate. He assured Council that he would research this issue.

Mayor Williams added that Ms. Pickle had a contract on her home through a realtor and then were told that they could not do an Airbnb, therefore, the contract went away. She wanted to know what was going on with the other property.

Mayor Williams further advised that he had spoken with the Code Manager in the past and had requested a list of properties with liens and the amounts of liens. There are a lot of properties where liens have stopped and these liens need to be removed so that homeowners can refinance or get other funds to fix up their homes. Most of these are liens for high weeds and he believes these need to be looked into and something figured out to help these citizens.

City Manager Titkanich advised that they had discussed an amnesty program and were in the process of working on something.

Mayor Williams felt that there are a lot of situations that could be helped and he feels it is wrong that the City does this to some of these homeowners.

XI. ADJOURNMENT.

*** MOTION by Councilmember Boisvert; Seconded by Councilmember Koss, to adjourn the Regular meeting of April 24, 2019.**

AYES: Williams, Boisvert, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

The meeting adjourned at 8:31 p.m.

_____

Jake Williams, Jr., Mayor

ATTEST:

_____

Carie E. Shealy, MMC, City Clerk

EXHIBIT A: Letter submitted by Todd Riggs
(read by Linda Dolphin)

Lorraine Koss

From: Todd Riggs <toddriggs00@gmail.com>
Sent: Monday, February 11, 2019 6:26 PM
To: Jake Williams; Lorraine Koss; John Titkanich
Cc: JL Riggs
Subject: Significant Cost Savings Opportunity for Cocoa Water Utility Rehab Work

Dear Mayor Williams, Councilwoman Koss, and John,

I'm writing this with two hats on, but primarily as a concerned resident of Cocoa. Last week I learned of a $35,000+ cost savings opportunity for the City. I want to make sure you are aware, and that you and your Utilities and Public Works Departments have the opportunity to follow up.

In my role as a consultant I've recently been working with The Midas Companies (www.midascompanies.com), a leading full-service provider of water and sewer rehabilitation services, based in the metro DC area with a division in Palm Beach FL as well. As it turns out, Midas is in discussions with Carollo Engineers in Orlando to rehab 1,800 manholes in Cocoa, approx. $700K of work.

Relying on an engineering firm to serve as a go-between to manage this type of work can lead to excess and avoidable cost in a couple of ways:

1) They may spec sub-optimal materials because they don't actually do the work and therefore don't have hands on experience with the materials. This is a potential savings of 5%. Selecting the right material for the job, on a $700K job, is a ~$35,000 savings.

2) On top of that, Cocoa will pay Carollo's engineering bill. I don't know if that's hourly or lump sum; either way, it is unlikely to be a small number.

So that's $35K avoidable cost, plus whatever Carollo is charging Cocoa, just on this scope of work.

Given the state of our infrastructure (the mainline break during Hurricane Irma was just a few blocks from my house), Cocoa is likely to need a lot of other work in infrastructure rehabilitation. I presume Cocoa is likely to also go through Carollo for this additional scope.

I believe a more efficient approach is to work directly with a contractor that brings capabilities across a broad spectrum of infrastructure rehab work. First, such a contractor would be better able to work with Cocoa to identify and tailor the right approach (vs. "if all you have is a hammer, everything starts to look like a nail"). Second, the contractor would be directly responsible for the quality and timeliness of their work, without paying extra to an engineering firm.

Midas is one example of this kind of firm, and has significant presence and experience in Florida in general and Central Florida in particular.

I would like to put you (and the right people on the City staff) in contact with Kevin Jennings, the General Manager of Midas Southeast, so he can help Cocoa determine the most cost-effective path forward on all of our water utility needs.

I look forward to hearing your thoughts and introducing you to Kevin.

Sincerely,

Todd Riggs
1629 N. Indian River Dr.
Cocoa FL 32922
414.795.6147

Zoning Text Amendment
Indoor Shooting Range Use in M-2

April 24, 2019

EXHIBIT B: Zoning
Text Amendment Indoor Shooting
Range Use in M-2

Project Summary

The City of Cocoa, as the applicant, is requesting to amend Appendix A, Article XI, Section 19 of the code to allow an indoor shooting range, with ancillary retail sales and a restaurant, as a principle use with conditions in the M-2 (Manufacturing and Industrial) Zoning District.

Project Summary

- The amendment was precipitated by a project proposed for an indoor shooting range, as yet untitled, that would include a retail store component as well as a restaurant.
- This business model is similar to another operation in Melbourne and one in Volusia County.
- At the present time there is no provision for indoor shooting ranges as a use in the City's zoning code.

Project Summary

(12) Limited commercial uses, as identified in this section, shall be permitted with the following conditions:

d. Commercial uses shall be limited to:

5. Indoor shooting ranges, with ancillary retail sales and restaurant subject to the requirements of subsection (A)(12)(d)(2.) of this Section, shall be permitted with the following conditions:

a. All firing shall take place within a completely enclosed building.
b. Site plan applications for the development of an indoor shooting range shall include a plan by a Florida registered engineer demonstrating that the building is soundproof and appropriately designed for such use.

Project Summary

In accordance with Section 1(G)(2), Article XXII, Appendix A (Zoning), of the Code of the City of Cocoa, the Planning and Zoning Board shall consider and study the following when an amendment to the zoning code is proposed:

a. The need and justification for the change.

b. The relationship of the proposed amendment to the purposes and objectives of the comprehensive planning programs and to the comprehensive plan, with appropriate consideration as to whether the proposed changes will further the purposes of [the] zoning code and other codes, regulations, and actions designed to implement the comprehensive plan.

Project Summary

Consistency with the Code of the City of Cocoa

- Currently, outdoor firearm testing facilities are permitted as a special exception in the M-1 and M-2 districts, when ancillary to a permitted firearm manufacturing use.

- The staff report for the ordinance allowing outdoor firearm testing facilities, recommended this use as a special exception to ensure outdoor firearms testing facilities would not be located within close proximity to residential areas.

Project Summary

Consistency with the Code of the City of Cocoa

- Staff's primary concern regarding the proposed zoning text amendment is protection of the surrounding community and the environment.

- Sport shooting and training ranges are regulated in part under Section 790.333, Florida Statutes. This statute provides that it is the public policy of the State of Florida to encourage the safe handling and operation of firearms and mandates appropriate training in the safe use and handling of firearms for persons licensed to carry concealed firearms and for persons licensed to hunt in the state.

Project Summary

Consistency with the Code of the City of Cocoa

- Additionally, the Legislature has preempted the whole field of regulation of *firearms and ammunition use* at sport shooting and training ranges, including the environmental effects of projectiles. However, zoning ordinances regarding the siting of shooting ranges continue to be permitted.

- The Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) have adopted lead standards to protect employee health and safety.

- OSHA published a Fact Sheet in June 2018, titled “Lead Hazards: Protecting Workers at Indoor Firing Ranges”.

Project Summary

Consistency with the Code of the City of Cocoa

- In addition, firing range waste must be managed in accordance with the Resource Conservation and Recovery Act (RCRA) and Title 40 Code of Federal Regulations (CFR) 260-265.

- The U.S. EPA has published a brochure, titled “Do you Use Best Management Practices for Lead at Your Outdoor Shooting Range?” and the National Park Service has published a brochure on “Firing Range Waste Management.”

Project Summary

Consistency with Comprehensive Plan Policies and Objectives

Future Land Use Element Goal 1.1: Create and maintain a broad range of land use activities that maximize the City's potential as a growth center while protecting the public health, safety, welfare, and appearance through the thoughtful planned use and development of the land and public facilities.

Future Land Use Element Goal 1.2: Location Criteria for Land Uses. Future land use categories and land development regulations shall be consistent with the density and intensity standards in Policy 1.1.1.1 and be based upon the following locational and development standards and criteria:

Project Summary

Consistency with Comprehensive Plan Policies and Objectives

Future Land Use Policy 1.1.2.10: Industrial zoning districts shall be regarded as appropriate locations for businesses that might have adverse secondary effects on residential areas, religious establishments, schools, parks, or day care centers located within the City.

Future Land Use Element Goal 1.3: The City of Cocoa shall enhance the quality of life and prosperity of its citizens through the retention and creation of a wide range of profitable business opportunities and jobs.

Recommendation

Previous Action:

The Planning & Zoning Board recommended approval of the proposed Zoning Text Amendment at the April 9, 2019 meeting.

Recommended Motion:

Pass on First Reading Ordinance XX-2019: A Zoning Text Amendment to allow indoor shooting ranges as a permitted use subject to certain conditions, including ancillary retail sales and restaurant in the M-2 (Manufacturing and Industrial) Zoning District.

COCOA
FLORIDA

Vacation of Right-of-Way
A portion of Riverside Drive

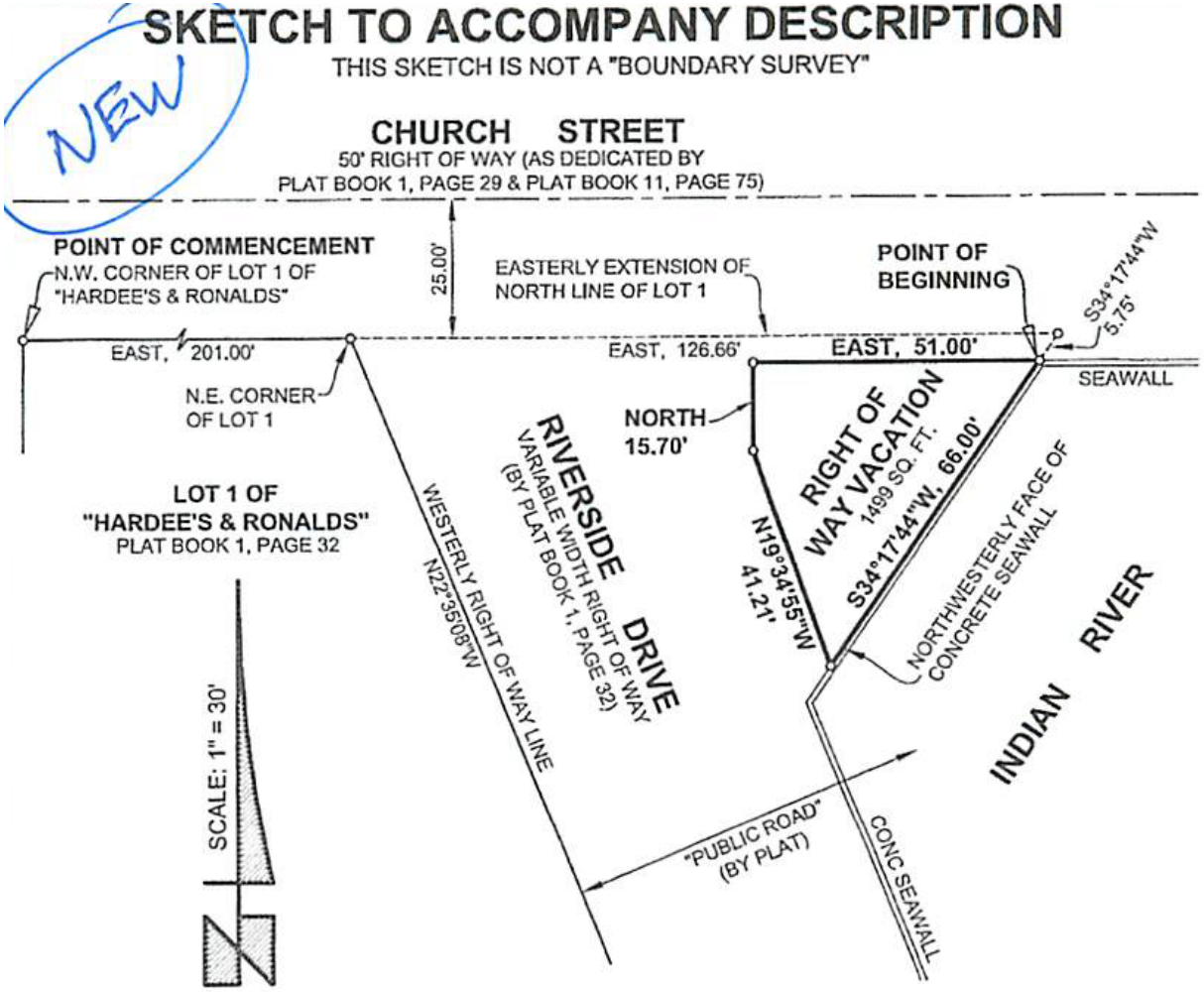
April 24, 2019

EXHIBIT C: Vacation of Right-of-Way a portion of Riverside Drive

Project Summary

- St. Mark's Church is requesting the vacation of a portion of the right-of-way of Riverside Dr. as depicted in Exhibit A.
- St. Mark's Church presently owns the parcel of land abutting this section of right-of-way as well as the parcel on the north side of Church St. where the church and school buildings are located.
- The roughly triangular portion of right-of-way in Exhibit A was originally used for the extension of Riverside Dr. that ran north from the intersection with Church St., along the waterfront, and ultimately provided a connection to SR520 where River Edge Blvd. crosses Harrison St.
- As a result of the development of Riverfront Park the roadway connection no longer exists, and there is no anticipated need for the use of this portion of right-of-way as a roadway.

Project Summary



Recommendation

Utilities and Easements Assessment:

- The City does need to retain a utility easement over the right-of-way in order to maintain City water, sewer and re-use facilities.

Recommended Motion:

Approve Resolution 2019-030 Vacating a portion of Right-of-Way of Riverside Drive.

Matthew Fuhrer

From: Everett (Ed) Wegerif
Sent: Monday, April 15, 2019 1:21 PM
To: Matthew Fuhrer
Cc: Gary Palmer
Subject: FW: Old Fire #1

Matt,
FYI – I asked Gary to put into writing if he were asked to recall the meeting at some later time.

Ed

From: Gary Palmer
Sent: Monday, April 15, 2019 1:05 PM
To: Everett (Ed) Wegerif <ewegerif@cocoafl.org>
Subject: RE: Old Fire #1

From: Everett (Ed) Wegerif <ewegerif@cocoafl.org>
Sent: Monday, April 15, 2019 9:26 AM
To: Gary Palmer <gpalmer@cocoafl.org>
Subject: RE: Old Fire #1

Gary – Add the date – Monday April?

From: Gary Palmer
Sent: Friday, April 12, 2019 2:19 PM
To: Everett (Ed) Wegerif <ewegerif@cocoafl.org>
Subject: Old Fire #1

Ed,

Per our discussion, on Monday April 8,2019 around 3:15 PM I arrived at the Old Fire Station #1 were one of my staff members(Jeff Erdley) was just finishing a tour of the fire station with Mayor Jake Williams and 3 ladies from Habitat. I introduce myself and we talked for about 5 minutes outside the front door to the fire station about some of the major issue about the building. The three ladies from Habitat were getting ready to leave when Lorraine Koss pulls up on a moped and a few second behind her so did a gentlemen named Rip(I don't know his last name). The Mayor spoke to Lorraine about "are you coming to the meeting tonight" and that was it. The Mayor then turn back towards the ladies from Habitat and said good bye and him and this gentlemen named Rip walked across the street and started a conversation. Meanwhile me and Jeff were locking up the building when Lorraine asked to go inside and tour the building. Me and Jeff Erdley walked Lorraine around the inside of the building and bays. After about ten minutes we finished and walked outside. Jeff proceeded to lock up the building when it started to rain. Jeff left and I offered to help Lorraine move her moped under the overhang and give her a ride home. The Mayor and Rip were still talking when we left the building. I asked Lorraine for directions to her home and the only City business that was discussed was the location of the Civic Center. I told her that If the City wants a Showcase Civic Center it needs to go at Lee Wenner, if the City just wants a Civic Center to have meetings, then it could be put anywhere in the City. Upon return to the office I reported all this to you.

If you have any question let me know.
Gary



Gary A.Palmer
Facilities Manager
155 North Wilson St, Cocoa, FL 32922
(321) 433-8772/ gpalmer@cocoafl.org

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Legislation Details (With Text)

File #:	19-261	**Version:**	1	**Name:**	
Type:	Minutes			**Status:**	Minutes
File created:	5/28/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	
Title:	Approve the Minutes of the Regular meeting of May 8, 2019, as written or with amendments.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	05-08-19 Minutes.pdf EXHIBIT A: The POWER of Public Art City of Cocoa 10.pdf EXHIBIT B: Photos provided by T. Stephan 001.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: May 28, 2019
Agenda Date: June 12, 2019
Prepared By: Carie Shealy, City Clerk
Through:
Requested Action:
Approve the Minutes of the Regular meeting of May 8, 2019, as written or with amendments.

BACKGROUND:

NA

STRATEGIC PLAN CONNECTION:

NA

BUDGETARY IMPACT:

NA

PREVIOUS ACTION:

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

RECOMMENDED MOTION:

Approve the Minutes of the Regular meeting of May 8, 2019, as written or with amendments.

MINUTES

CITY OF COCOA
REGULAR MEETING OF THE CITY COUNCIL

May 8, 2019

A Regular City Council Meeting was held on Wednesday, May 8, 2019, in Cocoa City Hall, in City Council Chambers, located at 65 Stone Street, in Cocoa, Florida, 32922, as publicly noticed.

I. OPENING MATTERS:

Mayor Williams announced that Councilmember Boisvert was on vacation and would not be in attendance at this meeting.

Mayor Williams called the meeting to order at 6:01 p.m.

Chief Cantaloupe provided the invocation, and Councilmember Goins led the assembly in the Pledge of Allegiance to the Flag of the United States of America.

The City Clerk took the roll.

PRESENT:	Jake Williams, Jr.	Mayor
	Brenda Warner	Deputy Mayor (attended via phone)
	Alex Goins	Councilmember
	Lorraine Koss	Councilmember
	Anthony Garganese	City Attorney
	John A. Titkanich, Jr.	City Manager
	Matt Fuhrer	Assistant City
	Carie Shealy	City Clerk
ABSENT:	Don Boisvert	Councilmember

OTHER STAFF MEMBERS PRESENT:

Tammy Gemmati, Administrative Services Director; Jack Walsh, Utilities Director; Charlene Neuterman, Deputy Community Services Director; Mike Cantaloupe, Chief of Police; Tom Redmond, Lieutenant, Cocoa Fire Department; Ed Wegerif, Public Works Director; Lora Howell, Deputy Finance Director; LeShawn Hinton,

Helpdesk Support Technician; Samantha Senger, Assistant to the City Manager/ Public Relations Specialist; and Darryl Niles, Redevelopment Program Manager.

II. APPROVAL OF AGENDA AND MINUTES:

1. Agenda: Regular Meeting of May 8, 2019 (19-180)
2. Minutes: (a)FY 2019 Financial Update & FY 2020 Budget Priority Workshop held on March 14, 2019 (19-181)
   (b)Utilities Workshop held on April 2, 2019 (19-182)

Councilmember Koss requested an amendment to the agenda to move Consent Item V.1 to City Business VIII.2. Mayor Williams also requested the postponement of Item III.2 until the Deputy Mayor is in attendance to accept the award.

* **MOTION by Councilmember Koss; Seconded by Councilmember Goins, to approve the Agenda as amended for the Regular meeting of May 8, 2019.**

AYES: Williams, Warner, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

Councilmember Koss pointed out an amendment to the minutes for the FY 2019 Financial Update & FY 2020 Budget Priority Workshop, advising that on page 5 paragraph 5 it should read “neighborhoods north of Carlton Terrace.”

* **MOTION by Councilmember Koss; Seconded by Councilmember Goins, to approve the Minutes for the FY 2019 Financial Update & FY 2020 Budget Priority Workshop held on March 14, 2019 with amendments, and the Utilities Workshop held on April 2, 2019 as written.**

AYES: Williams, Warner, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

III. AWARDS AND PRESENTATIONS:

1. Presentation by Catherine Alexander regarding "The Power of Public Art, City of Cocoa". (19-183). (Councilmember Koss)

Councilmember Koss introduced Catherine Alexander, who provided a presentation[1] on public art. She asked Ms. Alexander to provide a presentation as they consider their budget for next year.

Ms. Alexander thanked Council for having her and provided various photos of art from around the state of Florida. She advised that there are more than sixty public art programs in the state.

She showed photos of some of the City's artwork such as the Emory Bennett and Melvin Morris statues. She spoke about some of the other artwork as well throughout the City.

Ms. Alexander expressed her belief that bus shelters in Cocoa should be branded so that people remember the City. She asked Council to look ahead and to work with SCAT to increase bus service in the City, especially in underprivileged areas and to brand the shelters.

Mayor Williams mentioned this was a discussion they had at the TPO meeting and he also had a discussion with Rocky Randall. He assured her that they have been evaluating bus stops in Cocoa.

Councilmember Koss also introduced the first place winner of Brevard Public Schools Art competition. Pauly Riggs was recognized by Council for his efforts and photos of his artwork were shown. He works with Art Beats, which is headed by Nancy Elliott, and is a junior at Cocoa High School.

~~2. Presentation of Certificate of Completion to Deputy Mayor Warner for the IEMO III: The Leadership Challenge, through Florida League of Cities, March 1-2, 2019. (19-170). (Mayor Williams)~~

This item was postponed to the next meeting when Deputy Mayor Warner could be in attendance.

3. Proclamation: Proclaiming the week of May 5-11, 2019 as "Drinking Water Week". (19-190). (Utilities Director)

Mr. Walsh read the proclamation into the record.

[1] EXHIBIT A: Presentation on the Power of Public Art

4. Proclamation: Proclaiming the week of May 19-25, 2019 as “National Public Works Week”. (19-193). (Public Works Director)

Mr. Wegerif read the proclamation into the record.

5. Proclamation: Proclaiming May, 2019 as "National Water Safety Month" and May 15, 2019 as "International Water Safety Day". (19-195). (Connie Harvey)

Mayor Williams read the proclamation into the record.

IV. DELEGATIONS:

Donna Kettner, 111 Harrison St., Cocoa, and owner of Green Apples, has spoken with a few council members about her problem. She was here a few months ago before the project behind her building was built. She had spoken ith Scott Davis at the time and was assured that everything would be done by code and approved by engineers.

She has been flooded twice, as well as Pub Americana. It looks like a waterfall coming in through the back. It was about three inches throughout the store and caused a lot of property damage and mold. It took hours to vacuum and she had to call Coastal Restoration so that the mold would not set in. She had to pay extra wages for employees to come in and help and had a loss of income due to having to close the store. This has caused stress, anxiety, and loss of sleep. She has had this business for over thirty-seven years. The City allowed someone to build higher than her property. She stated she knew this would happen, and does not know the engineer who approved the project but it is a disgrace.

Ms. Kettner stated that there were a lot of things not up to Code and she is before Council because she was promised that this would not happen. Her fear is that this is going to happen every time it rains as we go into the rainy season. She is going to put up sandbags to the ceiling as a temporary fix because the problem is that bad. She pointed out that she has a meeting tomorrow morning with the City Manager at 10 a.m. and wants this resolved, as it is not fair. She is asking the City leaders to take care of this problem once and for all.

Councilmember Goins asked what the plan was moving forward, and in response, City Manager Titkanich noted that there are several issues and assured Council that they were meeting with Ms. Kettner tomorrow morning.

Mayor Williams voiced his disappointment that this happened again and is surprised that we are still dealing with this.

City Manager Titkanich understood and assured Council that records are being reviewed. It was signed off by an engineer and you have old versus new development. It could be a civil issue.

Troy Stephan, 415 Delannoy Avenue, Cocoa, is the property owner that Ms. Kettner was referring to. He stated that the problem is that she does not do anything that she is supposed to do. She has a store front on Harrison Street and all of the roof drains go into a different area.

Mayor Williams stopped Mr. Stephan and Mr. Stephan stated that Delegations is a time for people to do city business. He asked if he could be a part of these meetings, as he had proof of everything Ms. Kettner is speaking about.

Mr. Stephan spoke about the last meeting where the issue arose about Riverfront Park. He provided photos[2] of some ideas that would keep the historic feel of the village. He owns twenty-eight properties in the Village and feels that the proposal lacks historic preservation and warmness. He advised that you can stamp concrete to look like a boardwalk and stain it the brown color so that it has a warm feeling and you also meet the hardness requirement for FEMA. There is no maintenance because the concrete is injected with color.

Nancy Elliott, 3406 Indian River Drive, HCVA, spoke about the upcoming Craft Fair on May 11 and 12, 2019. She stated many of the merchants would be having Mother's Day specials.

Miriam O'Quendo, 416 D Street, Cocoa spoke about the flooding in Regina Myra. She spoke about the park area in the neighborhood and that nothing is going on in that area, and maybe something could be done there about the drainage. Her daughter lost a car last year due to the flooding. Robert Wesley and Myron Gardener also spoke about the flooding issues.

Councilmember Goins explained the area that they were referring to and that the ramp is about three to four inches lower and because it is low the water just sits. They advised that the areas were D Street, Washington Street, and Lucas Lane.

[2] EXHIBIT B- Photos provided by T. Stephan

Mayor Williams spoke about the new Joe Lee Smith Center and was not sure if the pond going in there would help at all.

Mr. Wesley advised that where his mom lives the manhole in the street lifts up due to all of the water.

Mayor Williams stated that he took about a dozen photos the other day.

Assistant City Manager Fuhrer agreed and has seen it up to the doorway of a home. The water does build up.

Mr. Wesley said a drain would help but Councilmember Goins did not feel that a drain would solve the whole problem.

Mr. Wesley also is aware that the drains have been cleaned out but he is worried with rainy and hurricane seasons approaching.

Mayor Williams assured all of them that they would meet with staff to figure out a solution.

Councilmember Koss spoke about the upcoming Stormwater Workshop and Mr. Wegerif stated that this area of concern was in the City's long-term plan.

V. CONSENT AGENDA:

1. ~~Approve a Resolution Waiving the Competitive Bidding Process for the Purpose of Making a Sole Source Purchase of Four (4) Submersible Mixers from Ovivo USA, LLC, Salt Lake City, Utah, for the Sellers Water Reclamation Facility. (19-147). (Utilities Director)~~

This item was moved to City Business VIII.2.

2. Approve Amendment No. 1 to Task Order 2019-04 with Carollo Engineers Inc., Orlando, Florida, for the SCADA Programming Services VTScada, LCP's, and RTU's at the Jerry Sellers Water Reclamation Facility; To Approve a Resolution Amending the FY2019 Budget. (19-175). (Utilities Director)

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

AYES: Williams, Warner, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

Councilmember Koss asked if words could be spelled out on the Consent agenda so that the public was more aware of what was being approved. City Manager Titkanich assured her that they would work on eliminating acronyms in all items.

VI. PUBLIC HEARINGS:

1. Approve the first reading of Ordinance No. 03-2019 revoking the economic ad valorem tax exemption previously granted to Cross Brands Manufacturing, L.L.C. (19-172). (Community Services Director)

Attorney Garganese read Ordinance No. 03-2019 into the record, by title only, as followed. He advised this is the first reading.

ORDINANCE 03-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO CROSS BRANDS MANUFACTURING, L.L.C. ORIGINALLY AUTHORIZED BY ORDINANCE 11-2016; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

Mayor Williams opened the hearing to the public. There being no response, the public portion of the hearing was closed.

* **MOTION by Councilmember Goins; Seconded by Councilmember Koss, to approve Ordinance No. 03-2019 on first reading.**

AYES: Williams, Warner, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

2. Approve the first reading of Ordinance No. 05-2019 revoking the economic ad valorem tax exemption previously granted to Diamondback CNC, LLC. (19-186). (Community Services Director)

Attorney Garganese read Ordinance No. 05-2019 into the record, by title only, as followed. He advised this is the first reading.

ORDINANCE NO. 05-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO DIAMONDBACK CNC, LLC ORIGINALLY AUTHORIZED BY ORDINANCE 08-2012; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

Mayor Williams opened the hearing to the public. There being no response, the public portion of the hearing was closed.

* **MOTION by Councilmember Koss; Seconded by Councilmember Goins, to approve Ordinance No. 05-2019 on first reading.**

AYES: Williams, Warner, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

3. Approve the first reading of Ordinance No. 06-2019 revoking the economic ad valorem tax exemption previously granted to GeNO, LLC, n/k/a Vero Biotech, LLC. (19-185). (Community Services Director)

Attorney Garganese read Ordinance No. 06-2019 into the record, by title only, as followed. He advised this is the first reading.

ORDINANCE NO. 06-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO GENO, LLC ORIGINALLY AUTHORIZED BY ORDINANCE 12-2015; REIMPOSING THE AD VALOREM TAXES EXEMPTED FOR 2016 PURSUANT TO ORDINANCE 12-2015 TO THE EXTENT ALLOWED BY LAW; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

Mayor Williams opened the hearing to the public. There being no response, the public portion of the hearing was closed.

*** MOTION by Councilmember Goins; Seconded by Councilmember Koss, to approve Ordinance No. 06-2019 on first reading.**
AYES: Williams, Warner, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

4. Approve the first reading of Ordinance No. 07-2019 revoking the economic development ad valorem tax exemption previously granted to Paragon Plastics, Inc., n/k/a Trout Enterprise, Inc. (19-184). (Community Services Director)

Attorney Garganese read Ordinance No. 07-2019 into the record, by title only, as followed. He advised this is the first reading.

ORDINANCE NO. 07-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO PARAGON PLASTICS, INC. ORIGINALLY AUTHORIZED BY ORDINANCE 17-2011; REIMPOSING THE AD VALOREM TAXES EXEMPTED FOR 2016 PURSUANT TO ORDINANCE 17-2011 TO THE EXTENT ALLOWED BY LAW; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

Mayor Williams opened the hearing to the public. There being no response, the public portion of the hearing was closed.

*** MOTION by Councilmember Goins; Seconded by Councilmember Koss, to approve Ordinance No. 07-2019 on first reading.**

AYES: Williams, Warner, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

5. Pass on Second/Final Reading Ordinance No. 04-2019: A Zoning Text Amendment to allow indoor shooting ranges as a permitted use subject to certain conditions, including ancillary retail sales and restaurant in the M-2 (Manufacturing and Industrial) Zoning District. (19-188). (Community Services Director)

Attorney Garganese read Ordinance No. 04-2019 into the record, by title only, as followed. He advised this is the second and final reading.

ORDINANCE NO. 04-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A, ARTICLE XI, SECTION 19 OF THE ZONING ORDINANCE OF THE CITY OF COCOA TO ALLOW INDOOR SHOOTING RANGES AS A PERMITTED USE SUBJECT TO CERTAIN CONDITIONS, INCLUDING ANCILLARY RETAIL SALES AND RESTAURANT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

Mayor Williams opened the hearing to the public. There being no response, the public portion of the hearing was closed.

* **MOTION by Councilmember Goins; Seconded by Councilmember Koss, to approve Ordinance No. 04-2019 on second and final reading.**

AYES: Williams, Warner, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

Councilmember Koss asked staff about the revocations approved. Mayor Williams mentioned that some of these businesses moved out and did not fulfill obligations.

Attorney Garganese further advised that when these were voted on in referendums by citizens and there are certain benchmarks included in the agreements. These are things such as annual reporting responsibilities and if they do not meet them or do not file, then Council can revoke them. He explained in furtherance other issues that these revocations may consist of.

VII. COUNCIL BUSINESS:

1. Approve Resolution 2019-037 providing for a temporary waiver of building permit fees related to the installation of solar photovoltaic and thermal systems for a period of one year; expressing the City's support for the Florida Solar United Neighbors (FL SUN) Initiative of the League of Women Voters and the Community Power Network; and the intention of the City to partner with those organizations to further adoption of solar energy in the City and Brevard County. (19-189). (Community Services Director)

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

AYES: Williams, Warner, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

Councilmember Koss stated that she had submitted a draft of this resolution and thermal systems was added. She is not opposed to it but pointed out that photovoltaic is more efficient.

VIII. CITY BUSINESS:

1. Approval to accept the funds awarded for Florida Inland Navigation District (FIND) Grants BV-CO-17-134 and BV-CO-17-139E; approve a Budget Resolution to amend the Fiscal Year 2019 in the amount of $652,100. (19-177). (Community Services Director)

Ms. Neuterman explained that in 2017 the City applied for this grant and they are coming to Council to amend the budget in order to accept the funds for grant revenue. She explained the portion that the City is responsible for.

Councilmember Koss noted that roughly half a million is provided by the grants and asked where the remainder would come from. City Manager Titkanich stated that it is budgeted in general fund reserves.

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

AYES: Williams, Warner, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

2. Approve a Resolution Waiving the Competitive Bidding Process for the Purpose of Making a Sole Source Purchase of Four (4) Submersible Mixers from Ovivo USA, LLC, Salt Lake City, Utah, for the Sellers Water Reclamation Facility. (19-147). (Utilities Director)

Mr. Walsh explained that about three or four years ago a significant upgrade was done to the Sellers Plant. He explained the project and mentioned that these are not replacement pumps they are shelf pumps.

Mayor Williams mentioned that this agenda item states that this is the only vendor who sells this mixer. Mr. Walsh clarified there are other vendors but these mixers are designed specifically for the type they use. He explained how these were installed as well.

Councilmember Koss asked about the life span of the mixers, and in response, Mr. Walsh stated the life span was around ten years.

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

AYES: Williams, Warner, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

MULTI-YEAR CONTRACTS:

3. ~~2~~. Award Bid # B-19-13-COC, Lee Wenner Park T-Dock and Day Slips to the low bidder, C&D Construction Incorporated, including Alternate 1 (Additional 100' of T-Dock and 6 Additional Day Slips), for $1,734,800; Approve as a Multi-Year, Multi- Phase Contract from FY 2019 through FY 2020 and Authorize the City Manager to Execute the Contract. Approve a Resolution Amending the FY2019 Budget to accept a Transfer to Fund 302 from the Cocoa CRA, for the enhancements to the project. (19-166). (Public Works Director)

Mr. Wegerif explained the item and mentioned the recent bids that were received, and explained that this would replace the facilities wiped out during Hurricane Irma.

He noted that the funds for this item were just approved and it would be spent to replace the old wooden docks with concrete docks that are more stable and resilient.

Councilmember Koss was glad to see it was a Cocoa company. Mr. Wegerif advised that they have built other facilities in Cocoa as well.

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

AYES: Williams, Warner, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

IX. INFORMATIONAL AGENDA:

1. Data showing the relation between the estimated and actual income and expenses to date. (19-187). (Finance Director)

X. REPORTS:

Ms. Neuterman reminded Council that there will be a Resiliency Open House on Tuesday, May 21, 2019 in City Council Chambers. It is the perfect time to share ideas as hurricane season approaches.

City Manager Titkanich announced that it is Municipal Clerk's Week and acknowledged the City Clerk's office and the work that they do. He further acknowledged all public servants.

He advised that the Florida League of Cities Annual Conference will be held August 15-17, 2019 in Orlando and that we need to know which Council members would like to attend so that we can get them registered and hotel reservations can be made. He advised that the City Clerk had spoken with Councilmember Boisvert and he does not wish to attend. Those who would like to attend are: Mayor Williams, Deputy Mayor Warner (she will not stay but will drive back and forth), Councilmember Goins, and Councilmember Koss.

City Manager Titkanich advised that he received a request from Florida Tech requesting that the City send a letter of support to the Governor for the Florida Tech Inflow Research Project. He will draft a letter if there is consensus among Council.

*** THERE WAS A CONSENSUS AMONG ALL COUNCIL MEMBERS TO SUPPORT THE REQUEST FROM FLORIDA TECH.**

Councilmember Goins mentioned that he sent an email to all Council regarding a tour of Hannibal Square in Winter Park. He is hoping that June 29th will be the date and that all would be available to attend.

He spoke about the upcoming basketball tournament at Fern and Prospect Park on May 25, 2019. Officer Hattaway is working with him on this event and he asked Mr. Wegerif for help with lighting.

Councilmember Koss mentioned that at the last meeting Mr. Greenwood brought up the issues of trees. She noted that she had submitted budget proposals and one of those included becoming a Tree City USA again, as the beauty of that program is to educate people about trees and about the ecological and economic benefits that trees provide to all of us. She assured Mr. Greenwood that she would be looking into this going forward.

City Manager Titkanich shared information about HB 1159 which was passed by legislature and prohibits local governments from requiring permits for trees. He stated that he would have to work with the City Attorney to ensure that our ordinance is consistent with what the state is passing. He is waiting to see if the Governor signs the bill.

Mayor Williams thanked the Chief of Police and Deputy Chief Lamm for the National Day of Prayer and mentioned that he had the pleasure of touring the Harmony of the Seas at Port Canaveral. It is absolutely incredible. He also got to tour the Mariner of the Seas.

He reminded all that May 11th is Captain Ed Lanni Day and he is looking for something that can be done for him, such as possibly naming some streets after him and other citizens that have had a vital impact on the community. He mentioned Travis from Travis Hardware and Al Trafford. He knows some have already been recognized with plaques but would like to look into naming streets also.

In closing, he announced that Captain Lanni will be the guest speaker at the upcoming Memorial Day event on Monday, May 27, 2019, and the Cocoa High School Chorus will also be performing.

XI. ADJOURNMENT.

*** MOTION by Councilmember Koss; Seconded by Councilmember Goins, to adjourn the Regular meeting of May 8, 2019.**

AYES: Williams, Warner, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (4-0)

The meeting adjourned at 7:20 p.m.

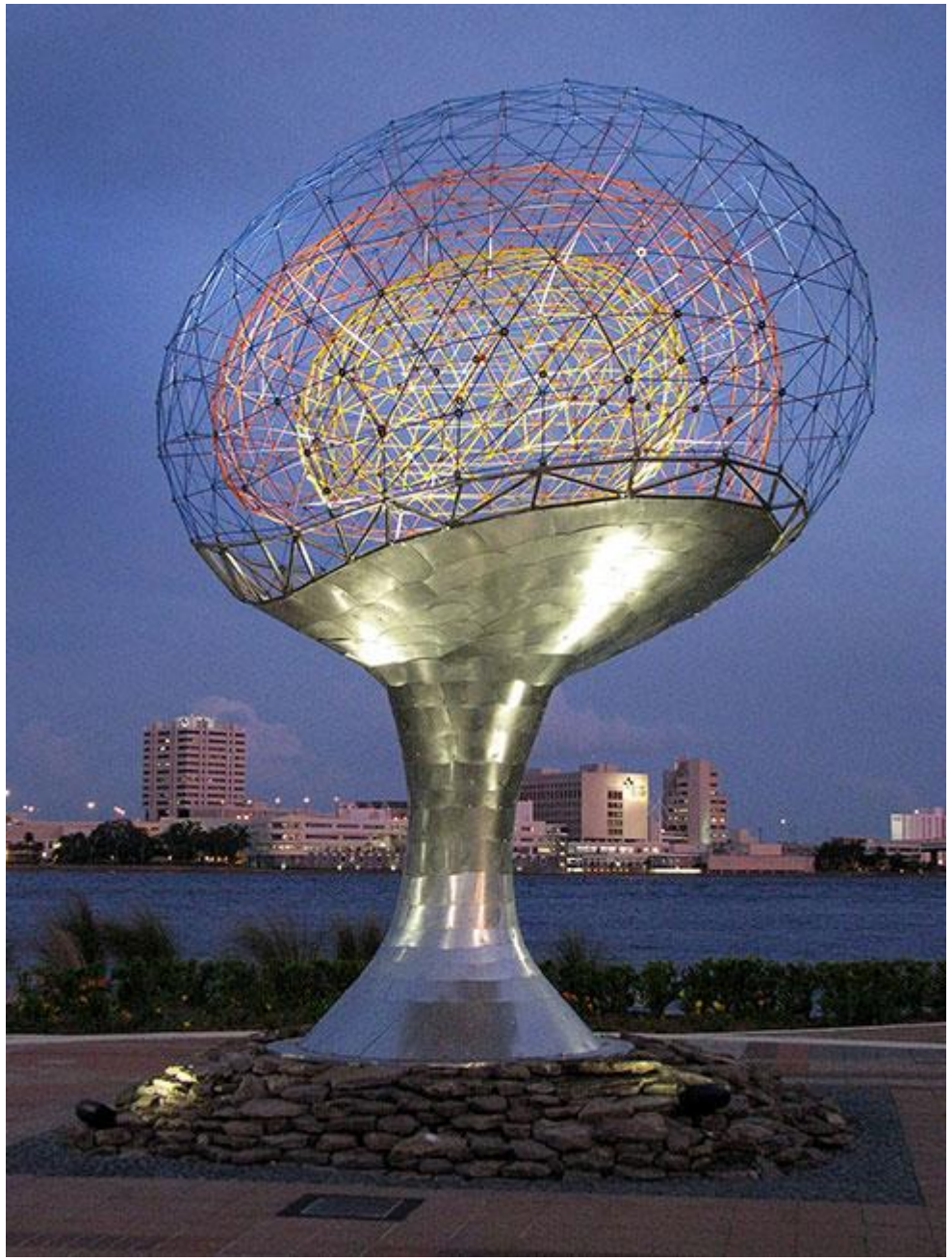
_____

Jake Williams, Jr., Mayor

ATTEST:

_____

Carie E. Shealy, MMC, City Clerk

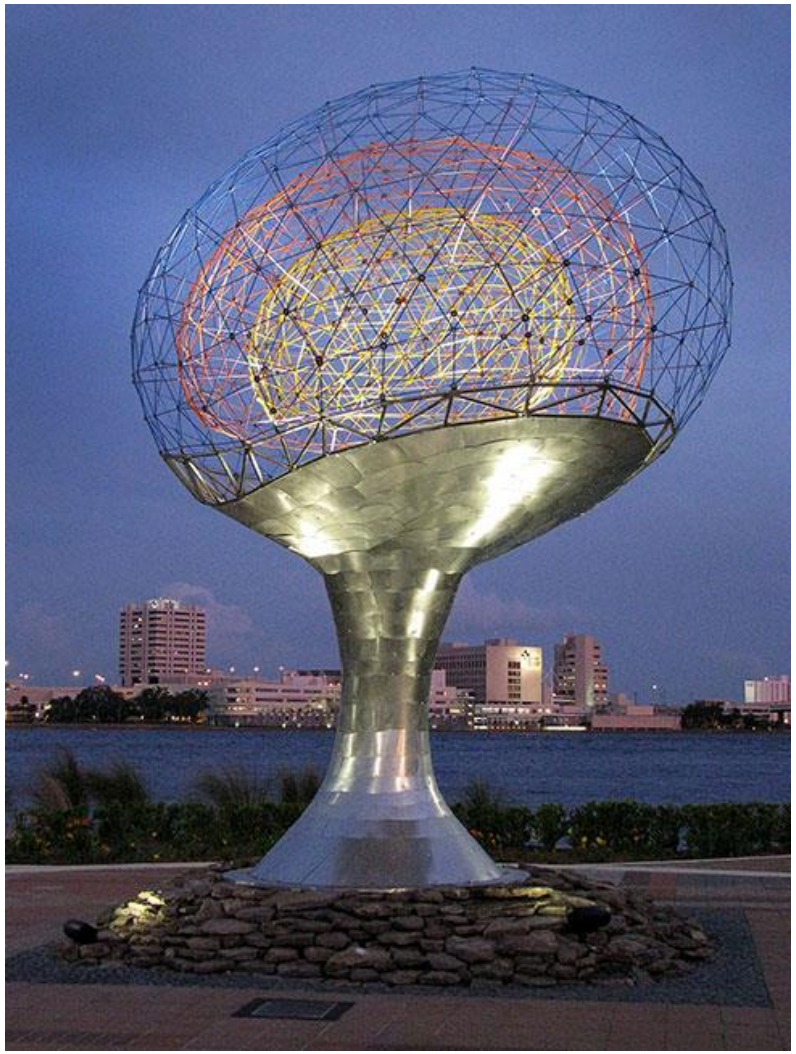


The Power of Public Art

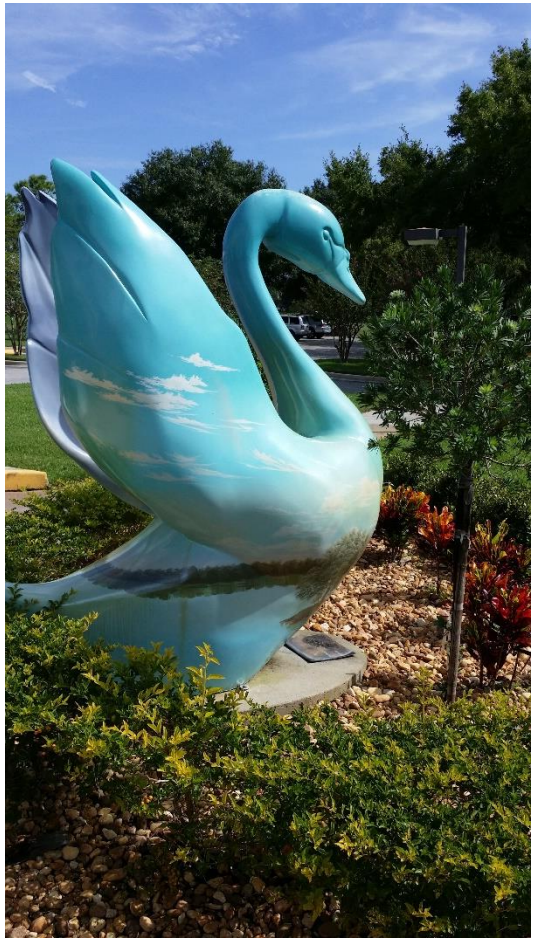
Catherine Alexander, Project Manager,
Alexander Consulting
Alexander.catherine55@ymail.com
City of Cocoa, City Council
MAY 8, 2019

EXHIBIT A: PRESENTATION ON THE POWER OF PUBLIC ART

What is Public Art?



Tillie K. Fowler Memorial Sculpture in Jacksonville, Fl.



Art Competition with Swan Sculptures in Lakeland Fl.

Airports

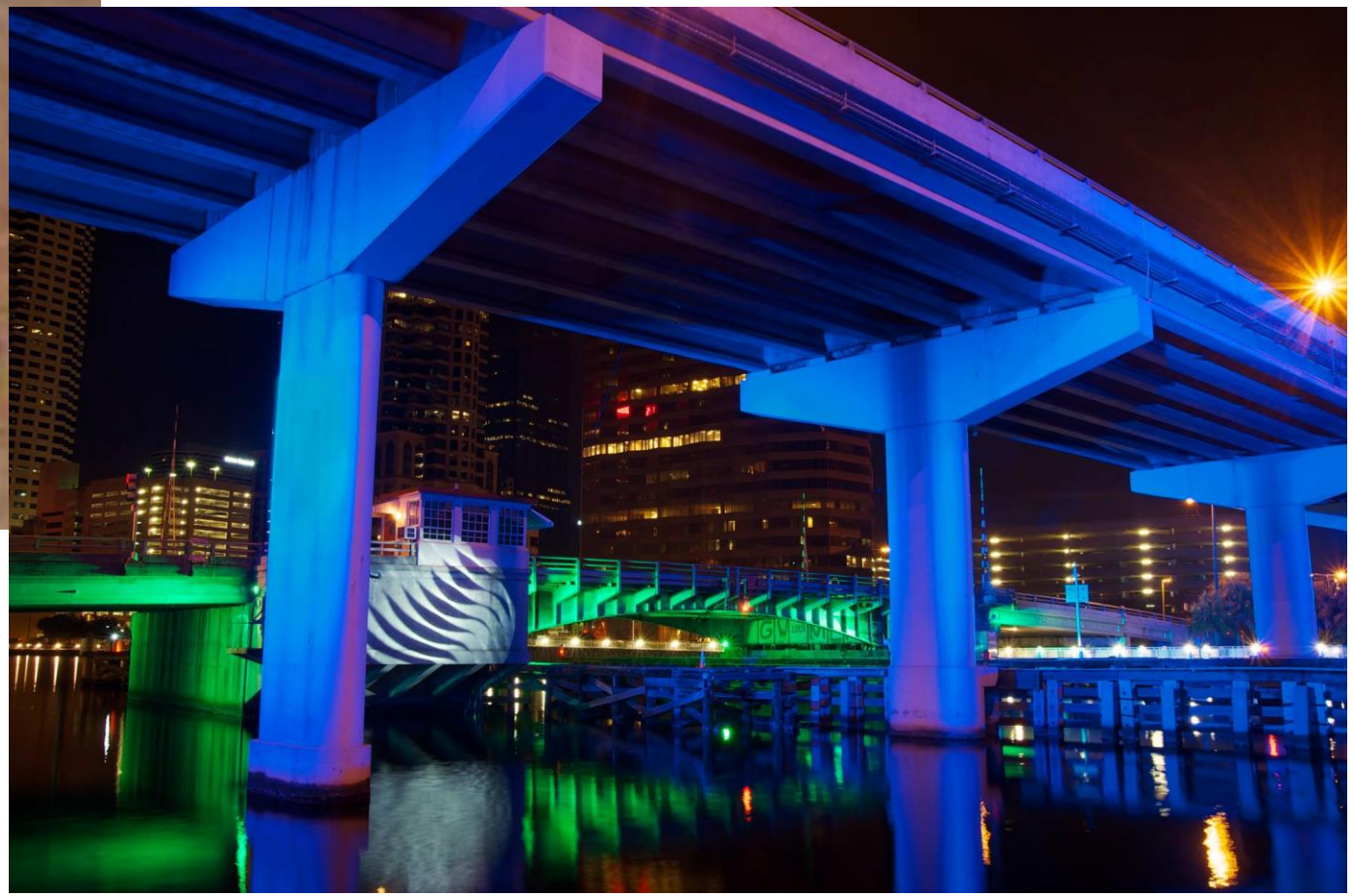


The Public Art Program at Jacksonville International Airport continues to grow and will welcome future generations home to Jacksonville.



Bridges, Buildings





Photographic Exhibits







John Moran
Florida's "Photographer Laureate"
Exhibit at the Florida State Building
in Tallahassee

“Her Virtue is Patience”, Phoenix center city park installation, Artist - Echelman Studios



Local Public Art ..



Emory L. Bennett statue
in Cocoa’s Riverfront Park



Melvin Morris statue in
Cocoa’s Riverfront Park

ART WORKS!

- **National Assembly of State Arts Agencies**, *"Why Should Government Support the Arts?"*
  - ✓ Improves the Impact of Other Public Policies
  - ✓ Dynamic Contributor to the Small Business Sector
  - ✓ Public Art Attracts Investment and Locally Recirculates Income
  - ✓ Creativity is a Competitive Advantage
- **National Governors Association,** *"Five Roles for Art, Culture and Design"*
  - ✓Art and Design are critical ingredients for innovative place and can catalyze community revitalization
- **Americans for the Arts** - The Arts are Economic Drivers, Educational Assets, Support Health and Wellness, Serve as Civic Catalysts, and Preserve Cultural Legacies

Why I Care About Public Art…
and Why It Matters

Art Works - it is an Economic Engine for Growth

- **Grow the Tax Base** by attracting high tech businesses
- **Revitalize older neighborhoods and address crime and poverty**
- Educate Youth in the Industries of Tomorrow (STEAM)
- Revive manufacturing, providing good jobs for all our citizens
- Attracts Tourists

- **Placemaking – "Branding"**
- **Public Art provides a Sense of Place for Citizens and Visitors**



WHAT'S NEXT?

More and **Better** Bus Shelters in Cocoa

- Utilize **Design Themes** Unique to the City and the community
- Address under-served areas of your community



Bus Shelter with Custom Graphic



Bus Stop

- **Unique Design for the City – Branding Opportunity**
- **Wind Rated to 140 MPH +**
- **Integrated Solar and LED Lights**



How Would You Market the City of Cocoa on Your Bus Shelter?

- HISTORIC COCOA VILLAGE ?
- RIVERFRONT PARK?
- Historic Buildings?
- Orange Groves ?
- Oak Trees ?
- ????

LET’S START WITH ONE SMALL STEP…

IMPROVED BUS SERVICE AND Bus Shelters For Brevard

A Marketing Opportunity in Partnership with Transit

Expanded Branding for the City of Cocoa

Build on your current efforts to upgrade bus stops for ADA compliance

Next Steps For Cocoa?

- **Develop a Strategic Plan for Public Art as it relates to BUS ROUTE EXPANSION and Bus Shelters**
- **Integrate Bus Shelter Pads into all "Complete Street" Upgrades**
  - ✓ Incorporate Shelters with Unique Designs that reflect the City's culture and History
  - ✓ Strengthen Existing Partnerships – Housing Authority, CRAs, Cocoa Artists, Schools to advocate
  - ✓ Work with SCAT to Identify High Priority Locations for expansion (Clearlake Rd., Rosa L Jones, etc.)
  - ✓ Investigate **Opportunity Grants (2019)** to improve transit opportunities
  - ✓ Provide for waste removal within your existing contracts

Approximate Cost to Add Art to a Shelter

$ 600 – Custom back panel with permanent design
(City Logo?) embedded in the back panel of the shelter

OTHER OPTIONS

- $ 300 – Art wrap depicting local artist's work reflecting the unique qualities of your community, installed for a 6 month period, ex. Student art installed on a temporary basis
- Who can fund it – TDC, City, Main Street, Private Business and Non-Profits
- **QUESTIONS/DISCUSSION**

BACKUP SLIDES

- Research with Sources
- Brainstorming for Art Themes

Survey Results, continued

Key Elements Of A Successful Public Art Program

- Inclusive and collaborative **strategic planning** for a comprehensive program
- Select public art that reflect the **unique character** of the community
- Provisions for on-going **maintenance**
- A **dedicated funding** source

Public Art Works

Best Practices Research Included in Developing This Report:

- Americans for the Arts – “Public Art by the Book”
- National Assembly of State Arts Agencies – State Policy Brief- “Why Should Government Support the Arts”
- **National Governors Association – “New Engines for Growth – Five Roles for Art, Culture and Design”**
- Public Art Review by the Forecast Public Art
- BCA Survey of communities across the U.S., similar in population to Brevard (500,000)

And Also, Events







Magic Carpet installation,
Fairmont Park, Philadelphia, Pa.

Art in Public Places Advisory Committee Survey Results

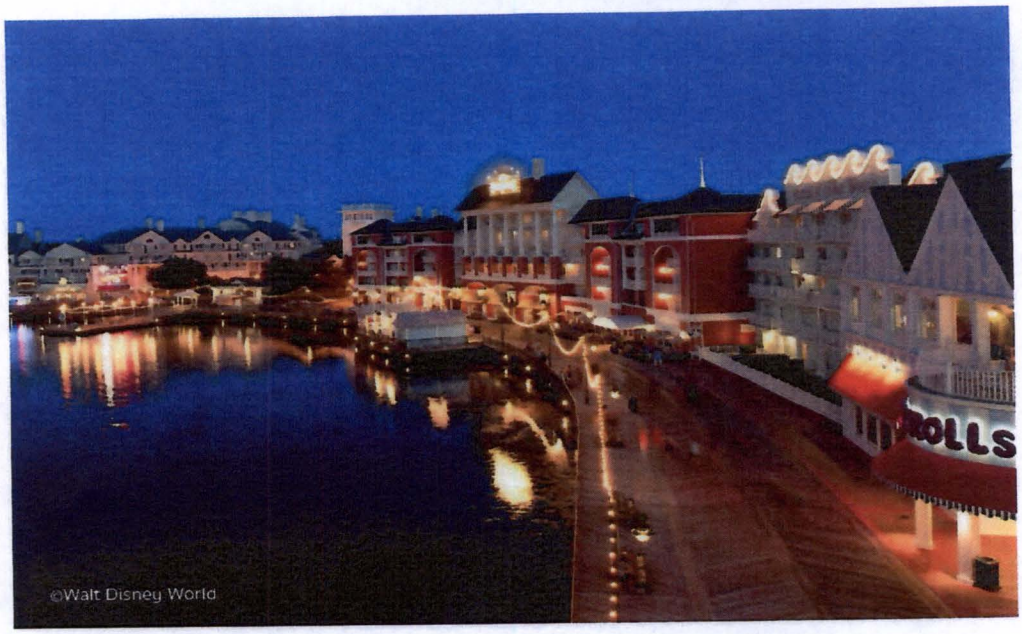
A majority of the respondents identified **positive impacts** on the community as a result of their public art project:

- Increase in number of visitors to the community,
- Increase in economic development
- Increase in the number of citizens participating in cultural events

- 14% of respondents acknowledged that it is difficult to quantify the impact
- Respondents specifically identified the following **challenges or lessons learned** associated with their public art program:
  - Wavering support from council members for art work that was not figural or nature based. Abstract art is not as well understood or received,
  - Public art is frequently misunderstood and runs the risk of being seen as an unnecessary addition to an already costly project,
  - Working with diverse agencies to accomplish the project,
  - Safety, Cleaning and Maintenance of installations

Cocoa Village







Legislation Details (With Text)

File #:	19-242	**Version:**	1	**Name:**	
Type:	Resolution			**Status:**	Consent Agenda
File created:	5/13/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	
Title:	Approve a Resolution to Amend the FY19 Budget to Transfer Funds for an Emergency Repair on the High Service Pump #1 by Ring Power Corporation, Palm Bay, Florida, at the Dyal Water Treatment Plant. (Utilities Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Ring Power's Estimate City Manager's email authorizing emergency repair Budget Resolution - HSP Repair BAF 19-093 -UT-High Speed Pump #1 (6-12-19) Agenda 19-242.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: May 13, 2019
Agenda Date: June 12, 2019
Prepared By: Shawny Weston, Administrative Assistant
Through: John A. Walsh, P.E., Utilities Director
Requested Action:
To Approve a Resolution to Amend the FY19 Budget to Transfer Funds for an Emergency Repair on the High Service Pump #1 by Ring Power Corporation, Palm Bay, Florida, at the Dyal Water Treatment Plant

BACKGROUND:

The Dyal Water Treatment Plant experienced a catastrophic failure of one of its four High Service Pumps (HSP) that supply 30 MGD of treated drinking water to the City of Cocoa's 300,000 customers. High Service Pump #1 requires repair and possible replacement of its Clutch, Power Take Off unit (PTO), and the Gear Drive.

Ring Power Corporation disassembled the unit and gave us an estimate of $53,786.25 for the repair.

The plant operators rely on this critical piece of emergency equipment. If the plant was to lose commercial power from Duke Energy and the Dyal Plant Generators were to fail, the operators are able to start-up this HSP and supply critical drinking water to maintain system pressure.

On May 13, 2019, the City Manager declared an emergency and authorized the repair of this critical

piece of equipment to Ring Power Corporation, Palm Bay, Florida.

Per our Financial Operations Manual, Staff is providing this agenda item as informational since the City Manager already approved the budget transfer and requisition under emergency conditions and informed City Council of the matter at a regular City Council meeting.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

Budgeted	No
If not budgeted, is amendment/transfer attached?	Yes

Budget Transfer 2019-19-093

Amount Requested	$53,786.25
Account Number	421-4020-536.46-00
Account Name	Repairs & Maintenance
Source of Funds:	421-4020-536-34.00, Contract Services

PREVIOUS ACTION:

None

RECOMMENDED MOTION:

To Approve a Resolution to Amend the FY19 Budget to Transfer Funds for an Emergency Repair on the High Service Pump #1 by Ring Power Corporation, Palm Bay, Florida, for the Dyal Water Treatment Plant.

Ring Power® CAT®

Power Systems Division

SULLAIR

OLYMPIAN™ GENERATORS

CAT® Power Systems

ST. AUGUSTINE	OCALA	PALM BAY	ORLANDO	TALLAHASSEE	TAMPA
500 World Commerce Parkway	6202 North US 301	415 Comm. College Pkwy SE	9901 Ringhaver Dr.	32000 Blue Star Hwy	10421 Fern Hill Dr.
St. Augustine, FL 32092	Ocala, FL 34475	Palm Bay, FL 32909	Orlando, FL 32824	Tallahassee, FL 32343	Riverview, FL 33578
904-737-7730	**352-732-4600**	**321-952-3001**	**407-855-6195**	**850-562-1622**	**813-671-3700**

SALES ***SERVICE*** ***PARTS*** ***LEASING*** ***RENTALS***

Customer: CITY OF COCOA

Address: 28400 SR 50

city, state, zip: CHRISTMAS FL, 32709

ATTN: TIM DYAR 321-698-1707

Date: 05/09/19
REFERENCE: WTP 1
Estimate on Model: 3512
Serial Number: 49Y00723
Terms:
QUOTE #:

DESCRIPTION OF MATERIAL	***UNIT PRICE***	***EXTENSION***
Ring Power Systems is pleased to offer the following estimate for your consideration.		
Scope of Work:		
TRAVE OUT TO THE UNIT AND TROUBLE SHOOT IT. FOUND THE CLUTCH HAD GONE BAD. REMOVE THE PTO AND THE GEAR BOX AND THE REAR CLUTCH. FROM THE ENGINE. BRING THE UNIT BACK TO THE SHOP AND CLEAN IT. TAKE IT ALL APART AND CHECK IT OUT. REBUILD THE PTO CLUTCH AND INSTALL NEW SEALS IN THE GEAR BOX. GO BACK THE THE PLANT AND INSTALL IT. AJUST THE CLUTCH AND TEST IT REPLACE THE REAT CLUTCH WITH A NEW ONE.		
NOTE: THE REAR CLUTCH MY NEED TO BE REPLACE WITH NEW NEW STYLE UNIT WE ARE LOOKING FOR ONE NOW AND THE PARTS PRICE MY GO UIP. I AM LOOK IN TO A AIR SHIFT PTO TO.		
P.O.# _____ (if required)		
TOTAL ALL STATE AND FEDERAL TAX NOT APPLIED TO TOTAL		**$ 53,786.25**

QUOTATION ACCEPTED BY: _____ DATE: _____ TAX #: _____

CUSTOMER: _____ SALESPERSON: _____

Estimate Salesperson: **SEAN SIMMONS** **PALM BAY** **321-952-3001**

TERMS:

If you should have any questions, comments or would like to schedule this repair, please contact the above personnel. This estimate is made subject to buyer's acceptance within thirty (30) days from this date. All prices subject to change without notice and those in effect on the date of completion shall prevail. Customer will be contacted should estimate exceed 15%.

Shawn Weston

From: John Titkanich
Sent: Monday, May 13, 2019 12:20 PM
To: John "Jack" Walsh
Cc: Rebecca Bowman; Matthew Fuhrer; David Fisher; Katherine Ennis
Subject: RE: Request for Emergency Purchase

Jack:

Pursuant to the provisions of Section 15.9 of the FOM and in light of the storm season upon us, you are authorized to expedite the repairs under emergency purchase authority.

I will advise City Council via email of this emergency purchase.

Regards,

John

John A. Titkanich, Jr., AICP, ICMA-CM
City Manager
65 Stone St., Cocoa, FL 32922
(321) 433-8737 I jtitkanich@cocoafl.org

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Stay Connected: www.cocoafl.org

From: John "Jack" Walsh
Sent: Monday, May 13, 2019 10:51 AM
To: John Titkanich <jtitkanich@cocoafl.org>
Cc: Rebecca Bowman <rbowman@cocoafl.org>; Matthew Fuhrer <mfuhrer@cocoafl.org>; David Fisher <dfisher@cocoafl.org>; Katherine Ennis <kennis@cocoafl.org>
Subject: Request for Emergency Purchase

John

We received the quote from Ring Power to investigate the clutch issue with the direct drive diesel motor. As outlined in the end of the previous email, the quote, through Ring Power, a sole source provider, is just over $50K. Because it is over $50K, I am requesting that we use your emergency purchase authority as outlined in the FOM for the benefit of expediting the repairs to the motor. It is critical we have multiple ways to deliver water and the direct drive diesel ensures we can do so when the primary generators fail. Also, the increased storm frequencies that is starting to occur also require us to go to generators throughout the summer nearly every day. Because this is a critical piece of equipment, I am asking you to declare the emergency condition so we can process the purchase order immediately and start repairs without delay. We will take the item to council after the fact as required. Thanks

Jack W.

From: John "Jack" Walsh
Sent: Friday, April 26, 2019 10:39 AM
To: John Titkanich <jtitkanich@cocoafl.org>
Cc: Matthew Fuhrer <mfuhrer@cocoafl.org>; Rebecca Bowman <rbowman@cocoafl.org>
Subject: Potential Emergency Purchase

John

Recently, we have had some strange but threatening type failures at Dyal. The first was an electrical relay and when it failed it was preventing us from using generators. We relied on the diesel engine system for the interim and the electrical repair has now been completed. We are now struggling the three different component failures on three different high speed service pumps and a diesel engine clutch failure. This has never happened before to my memory since I have been here, but it is why we have 4 pumps and heavy redundancy at the plant. Those smaller repairs are being worked on and currently, and we currently have 2 pumps available to pump water to town.

RingPower is preparing a quote to come back next week but realistically, we will not know the full extent of their scope of work until they come back and take apart the diesel motor and clutch system. RingPower is a preapproved confirmation vender so we will have them come back out as soon as we have the quote. Depending on what they find, we may need to declare an emergency repair for full repair. Hopefully it will be under your $100k limit.

I just wanted to keep you informed.

Also, we are working on the agenda item for the AC replacement at the WFO building. There was some confusion on who was preparing it so it should be on the May 22nd meeting

John "Jack" Walsh, P.E.
Utilities Director
351 Shearer Blvd., Cocoa, FL 32922
(321) 433-8701 jwalsh@cocoafl.org
Fax: (321) 433-8708

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RESOLUTION NO. 2019-047

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AMENDING THE CITY OF COCOA BUDGET FOR FISCAL YEAR 2019; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Cocoa adopted the final budget for the fiscal year commencing on October 1, 2018, and ending on September 30, 2019, at a Special meeting held on September 13, 2018; and

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

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

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

SECTION 1. The 2018-2019 fiscal year budget shall be amended as detailed in the attached sheets.

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

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

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the 12th day of June, 2019.

_____
Jake Williams, Jr., Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk

City of Cocoa Budget Adjustment Form FY 2019 - 19-093

SELECT ADJUSTMENT TYPE: BUDGET TRANSFER | REQUESTING DEPARTMENT #: 4020 | DATE PREPARED: 05/13/19

'FROM' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
($ 53,787)	421-4020-563.34-00		Water Sewer / Contract Services	$ 483,450	$ 438,450	$ 384,663	$ 348,556
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
($ 53,787)	TOTAL						

'TO' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 53,787	421-4020-536.46-00		Water Sewer / Repairs & Maintenance	$ 1,895,200	$ 1,904,975	$ 1,958,762	$ 470,129
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 53,787	TOTAL						

REASON/JUSTIFICATION FOR ADJUSTMENT:

The Dyal Water Treatment Plant experienced a catastrophic failure to the clutch assembly unit on our High Service Pump #1. This is one of four High Service Pumps that supply 30 MGD of treated drinking water to the City of Cocoa's 300,000 customers. The clutch, gear box, and the power take off (PTO) assembly all need repairs and/or replacement. Staff recommends the transfer of funds in the amount of $53,787 to repair this vital High Service Pump.
Agenda File ID #19-242

CITY COUNCIL APPROVAL REQUIRED? YES (●) NO ( ) DATE APPROVED: 06/12/19 RESOLUTION #: 2019-047

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

5/13/19	David Fisher (Digitally signed by David Fisher Date: 2019.05.13 13:53:53 -04'00')	5/22/19	Lea Taylor (Digitally signed by Lea Taylor Date: 2019.05.22 09:46:03 -04'00')		
Date	Requestor's Signature	Date	Finance Approval Signature	Date	Finance Director's Signature
5/13/19	John "Jack" Walsh	5/28/19	Lora Howell (Digitally signed by Lora Howell Date: 2019.05.28 08:41:53 -04'00')		
Date	Department Director's Signature	Date	Deputy Fin. Director's Signature	Date	City Manager's Signature

FINANCE USE ONLY:

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

Legislation Details (With Text)

File #:	19-244	**Version:**	1	**Name:**	
Type:	Resolution			**Status:**	Consent Agenda
File created:	5/14/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	
Title:	Approve a Resolution to Amend the FY19 Budget to Transfer Funds to Purchase a Free Ammonia Analyzer from AWC, Inc., Tampa, Florida, for the Dyal Water Treatment Plant. (Utilities Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Budget Resolution - Ammonia Analyzer Resolution - Sole Source -AWC, Inc. BAF 19-095 -UT-Free NH3 Analyzer (6-12-19) Agenda 19-244.pdf Ammonia SCan_1613740_6714.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: May 14, 2019
Agenda Date: June 12, 2019
Prepared By: Shawny Weston, Administrative Assistant
Through: John A. Walsh, P.E., Utilities Director
Requested Action:
To Approve a Resolution to Amend the FY19 Budget to Transfer Funds to Purchase a Free Ammonia Analyzer from AWC, Inc., Tampa, Florida, for the Dyal Water Treatment Plant

BACKGROUND:

The Dyal Water Treatment Plant pilot tested a free ammonia analyzer at our Industrial Park Booster Station as a part of our Disinfection By-Products Task Order analysis. This analyzer is giving operators useful and reliable real time data that helps us control the amount of free chlorine and free ammonia in the distribution system.

The transfer of funds will allow the City of Cocoa to purchase this analyzer and continue the best management practice for the control of disinfection by-product formation.

The funds are available in our Contract Services account due to a new agreement with the Deseret Ranch to take our ground water sludge at no cost to the City of Cocoa.

Staff recommends approval of this budget transfer to purchase the Ammonia Analyzer from AWC, Inc.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

Budgeted	No
If not budgeted, is amendment/transfer attached?	Yes

Budget Transfer #19-095

Amount Requested	$12,000
Account Number	421-4020-536.64-00
Account Name	Machinery & Equipment
Source of Funds:	421-4020-536.34-00, Contract Services

PREVIOUS ACTION:

None

RECOMMENDED MOTION:

To Approve a Resolution to Amend the FY19 Budget to Transfer Funds to Purchase a Free Ammonia Analyzer from AWC, Inc., Tampa, Florida, for the Dyal Water Treatment Plant.

RESOLUTION NO. 2019-048

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AMENDING THE CITY OF COCOA BUDGET FOR FISCAL YEAR 2019; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Cocoa adopted the final budget for the fiscal year commencing on October 1, 2018, and ending on September 30, 2019, at a Special meeting held on September 13, 2018; and

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

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

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

SECTION 1. The 2018-2019 fiscal year budget shall be amended as detailed in the attached sheets.

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

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

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the 12th day of June, 2019.

_____
Jake Williams, Jr., Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk

RESOLUTION NO. 2019-049

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 12th day of June, 2019.

_____

ATTEST: JAKE WILLIAMS, JR., MAYOR

_____

CARIE SHEALY, MMC, CITY CLERK

EXHIBIT “A”

To Resolution No. 2019-049

The City Manager recommends that the competitive bidding requirement be waived, by reason of sole source purchase, for the purpose of purchasing Free Ammonia Analyzers, from AWC, Inc in Tampa, FL.

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

_____

John A. Titkanich, Jr., City Manager

City of Cocoa Budget Adjustment Form FY 2019 - 19-095

SELECT ADJUSTMENT TYPE: BUDGET TRANSFER | REQUESTING DEPARTMENT #: 4020 | DATE PREPARED: 05/09/19

'FROM' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
($ 12,000)	421-4020-536.34-00		Water Sewer / Contract Services	$ 483,450	$ 372,663	$ 360,663	$ 328,343
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
($ 12,000)	TOTAL						

'TO' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 12,000	421-4020-536.64-00		Water Sewer / Machinery & Equipment	$ 471,900	$ 462,089	$ 474,089	$ 39,024
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 12,000	TOTAL						

REASON/JUSTIFICATION FOR ADJUSTMENT:

The Dyal Water Treatment Plant pilot tested a free ammonia analyzer at our Industrial Park Booster Station, as a part of our Disinfection By-Products Task Order analysis. This analyzer is giving operators useful and reliable real time data that helps us control the amount of free chlorine and free ammonia in the distribution system. The transfer of funds will allow the City of Cocoa to purchase this analyzer and continue the best management practice for the control of disinfection bi-product formation. The funds are available in our Contract Services account due to a new agreement with the Deseret Ranch to take our ground water sludge at no cost to the City of Cocoa. Agenda File ID #19-244

CITY COUNCIL APPROVAL REQUIRED? YES (●) NO ( ) DATE APPROVED: 06/12/19 RESOLUTION #: 2019-048

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

5/9/19	David Fisher (Digitally signed by David Fisher Date: 2019.05.09 16:39:03 -04'00')	5/22/19	Lea Taylor (Digitally signed by Lea Taylor Date: 2019.05.22 12:16:51 -04'00')		
Date	Requestor's Signature	Date	Finance Approval Signature	Date	Finance Director's Signature
5/10/19	John "Jack" Walsh (Digitally signed by John "Jack" Walsh)	5/28/19	Lora Howell (Digitally signed by Lora Howell Date: 2019.05.28 12:54:24 -04'00')		
Date	Department Director's Signature	Date	Deputy Fin. Director's Signature	Date	City Manager's Signature

FINANCE USE ONLY:

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

http://www.awc-inc.com

207 Kelsey Lane, Suite G
Tampa, FL 33619

Your AWC Contact: Hobie Fisher
Email: hobie.fisher@awc-inc.com
Phone: 321-207-0120 x2756
Fax: (321) 207-0739

Confidential: To be used by recipient's organization only

Attn: TIM DYAR
Email: TDYAR@COCOAFL.ORG
CITY OF COCOA
DYAL WATER PLANT
28400 STATE ROAD 520
CHRISTMAS, FL 32709
Phone: (321) 635-7774

Reference:	**Ammonia S:Can**
AWC Quote #:	**1613740 Rev 1**
Quote Version:	**002**
Quote Date:	**4/4/2019**
Quote Expires:	**9/16/2019**
AWC Account #:	**7C0756**

Set Up an Online Account

Check Current Availability
Request Expediting or Submit Feedback

Note: This is a revision of our quote number 1613740 Rev 0 on 9/12/2018

LI #	Qty	Part Number / Description	Your Price (Unit)	Your Price (Ext)	Need Date	Availability (ARO)
001	1	MI D-315-230 S::CAN CON::CUBE INDUSTRIAL MONITORING STATION CONTROL TERMINAL For 6 parameters of S::Can probes Control including display and touch screen.	$3,504.0000	$3,504.00		1 Days
002	1	DM MI E-532-ECO-NO3-PH-075 ammo::lyser eco+NO3+pH, incl. 7.5 m fixed cable *Mfr: DEMO EQUIPMENT *Mfr pn: E-532-ECO-NO3-PH-075 Monitors NH4-N, Temp and NO3-N with Potassium compensation	$4,080.0000	$4,080.00		1 Days
003	1	MI F-45-AMMO ammo::lyser flow-cell (by-pass setup), Pom-C *Mfr pn: F-45-AMMO	$254.0600	$254.06		21 Days
004	1	F-48 Ammo::lyser Flowcell Bypass setup	$469.6900	$469.69		1 Days

Quotation

LI #	Qty	Part Number / Description	Your Price (Unit)	Your Price (Ext)	Need Date	Availability (ARO)
005	1	MI C-1-010-SENSOR 1m connection cable for s::can Sensor or s::can ISE probe (IP68 plugconnection, RS485, 12 VDC) *Mfr pn: C-1-010-SENSOR	$78.7500	$78.75		1 Days
006	1	MI C-1-010-SENSOR 1m connection cable for s::can Sensor or s::can ISE probe (IP68 plugconnection, RS485, 12 VDC) *Mfr pn: C-1-010-SENSOR	$78.7500	$78.75		1 Days
007	1	MI F-501-ECO-US System Panel micro::station US *Mfr pn: F-501-ECO-US	$123.7500	$123.75		1 Days
008	1	MI F-45-STRAIN Inlet strainer *Mfr pn: F-45-STRAIN	$64.6900	$64.69		1 Days
009	1	F-45-1 FLOW 1 Flow Restrictor	$115.3100	$115.31		1 Days
010	1	MI X-SYS-ASSY Factory Assembling of s::can monitoring stations- Mounting of s::can probes in flow-cells- Mounting of flow-cells on system panel- Mounting of terminals on system panel- Mounting of additional components on system panel- Price per panel *Mfr pn: X-SYS-ASSY	$256.8800	$256.88		1 Days
011	1	MI X-SYS-CONFIG Factory Preconfiguration of s::can monitoring stations incl. QAcertificate- Initialisation of s::can probes & sensors- Check of system configuration- Price per panel *Mfr pn: X-SYS-CONFIG	$112.5000	$112.50		1 Days
012	1	MI-D-303-LX Lisence-Linux OS Embedded	$122.0000	$122.00		1 Days
013	1	DM MI D-315-OUT-MA 2 analogue outputs (output module) *Mfr: DEMO EQUIPMENT *Mfr pn: D-315-OUT-MA	$219.0000	$219.00		1 Days

LI #	Qty	Part Number / Description	Your Price (Unit)	Your Price (Ext)	Need Date	Availability (ARO)
014	1	DM MI S-20-MVA Complete license of all moni::tool modules, vali::tool and Ana::tool *Mfr: DEMO EQUIPMENT *Mfr pn: S-20-MVA	$1,673.1000	$1,673.10		1 Days
		***** SubTotal: *****		**$11,152.48**		

Notes:

1.) All stock subject to prior sale. Orders submitted by 2:00pm (CST) generally ship the same business day. For urgent next day needs please contact us to ensure a timely shipment of your order.

2.) Balance Can Ship Dates are based upon receiving an order within one business day from the day of the quote. For updated Balance Ship Dates click on the link at the top of the quotation.

3.) Unless otherwise agreed to in writing by both parties all sales resulting from this quote are subject to AWC's "Standard Terms and Conditions of Sale". (http://www.awc-inc.com/AWCTermsAndConditions.pdf)

4.) Standard shipment methods are UPS Ground or Southeastern Freight LTL.

5.) Standard freight payments are Prepay and Add.

6.) Standard payment terms are Net 30 days from date of invoice, subject to prior credit approval.

7.) The quoted sales price does not include taxes, freight, import/export duties or credit card processing fees.

8.) Credit card payments are acceptable if made at time of order placement, subject to a maximum of $10,000. A credit card processing charge of up to 3% of the order amount may be added to the order total.

Legislation Details (With Text)

File #:	19-250	**Version:**	1	**Name:**	
Type:	Resolution			**Status:**	Consent Agenda
File created:	5/16/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	
Title:	Approve a Resolution Waiving the Competitive Bidding Process for the Purpose of Making a Sole Source Purchase of a Dissolved Ozone Analyzer from S::Can Measuring Systems, LLC, North Attleboro, MA for the Dyal Water Treatment Plant; To Approve a Resolution to Amend the FY19 Budget with a Budget Transfer. (Utilities Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Resolution SS - Ozone Analyzer SCan Quote SCan SS Letter Budget Resolution FY 2019 (rev 11-13-18) BAF 19-094 -UT-Ozone Analyzer (6-12-19) Agenda 19-250.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: May 16, 2019
Agenda Date: June 12, 2019
Prepared By: Shawny Weston, Administrative Assistant
Through: John A. Walsh, P. E., Utilities Director
Requested Action:
To Approve a Resolution Waiving the Competitive Bidding Process for the Purpose of Making a Sole Source Purchase of a Dissolved Ozone Analyzer from S::Can Measuring Systems, LLC, North Attleboro, MA for the Dyal Water Treatment Plant; To Approve a Resolution to Amend the FY19 Budget with a Budget Transfer

BACKGROUND:

The Dyal Water Treatment Plant requires a replacement Dissolved Ozone Analyzer to monitor the primary disinfectant required to run the Surface Water Plant.

A budget transfer is necessary to move funds from the Repairs and Maintenance account to the Contract Services account because the budgetary transfers have exceeded the City Manager's approval authority for FY 19. This transfer will allow the City of Cocoa to purchase this analyzer for greater operational flexibility and less down time. Budgetary savings were achieved in the Repairs and Maintenance account through the new groundwater sludge agreement with the Deseret Ranch in disposing of our sludge at no cost to the City of Cocoa.

Staff recommends approval of the budget transfer and purchase of the Dissolved Ozone Analyzer from S::Can Measuring Systems, LLC.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

Budgeted	No
If not budgeted, is amendment/transfer attached?	Yes

Budget Transfer # 19-094

Amount Requested	$17,000
Account Number	421-4020-536.46-00
Account Name	Repair & Maintenance
Source of Funds:	421-4020-536.34-00, Contract Services

PREVIOUS ACTION:

None

RECOMMENDED MOTION:

To Approve a Resolution Waiving the Competitive Bidding Process for the Purpose of Making a Sole Source Purchase of a Dissolved Ozone Analyzer from S::Can Measuring Systems, LLC, North Attleboro, MA for the Dyal Water Treatment Plant; To Approve a Resolution to Amend the FY19 Budget with a Budget Transfer.

RESOLUTION NO. 2019-045

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 12th day of June, 2019.

_____

ATTEST: JAKE WILLIAMS, JR., MAYOR

_____

CARIE SHEALY, MMC, CITY CLERK

EXHIBIT “A”

To Resolution No. 2019-045

The City Manager recommends that the competitive bidding requirement be waived, by reason of sole source purchase, for the purpose of purchasing a Dissolved Ozone Analyzer from S::Can Measuring Systems, LLC, North Attleboro, MA.

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

_____

John A. Titkanich, Jr., City Manager

s::can
Intelligent. Optical. Online.

Tel: 1 888 694 3230
Fax: 1 888 469 5402
Email: office@s-can.us

s::can Measuring Systems LLC
38C George Leven Drive
North Attleboro, MA 02760

Quotation

Date	Quote #
2/20/2019	LLC19-3152

City of Cocoa

Terms	Rep Partner	Notes
Net 30		US Cocoa Ozone

Item	Description	Qty	Price Each	Total
O2-d-100-p0-q-NO-010	ozo::lyser (O3, NTU/FTU); drinking water; 100mm optical path length; no integrated pressure sensor; quartz windows; 1m fixed feed through cable, IP68	1	10,158.00	10,158.00
D-320-pro2-230	con::lyte pro, 90-250 VAC - for 6 parameters of s::can G::series, i::scan, s::can sensors, s::can ISE probes	1	1,697.00	1,697.00
D-320-out-mA	3 mA output chanels for con::lyte pro	1	224.00	224.00
F-501-eco-US	System Panel micro::station US	1	137.00	137.00
F-45-strain	Inlet strainer	1	72.00	72.00
F-446-2	Flow-cell (by-pass fitting) with dual autobrush, Pom-C (for pathlength 100 mm)	1	1,213.00	1,213.00
X-sys-assy	Factory Assembling of s::can monitoring stations - Mounting of s::can probes in flow-cells - Mounting of flow-cells on system panel - Mounting of terminals on system panel - Mounting of additional components on system panel - Wiring of Autobrush - Price per panel	1	309.00	309.00
X-sys-config	Factory Preconfiguration of s::can monitoring stations incl. QA certificate - Initialisation of s::can probes & sensors - Initialisation of Autobrush - Check of system configuration - Price per panel	1	135.00	135.00
Shipping & Handling	Standard delivery by UPS		250.00	250.00
		Total		$14,195.00

s::can
Intelligent. Optical. Online.

s::can Measuring Systems LLC
38C George Leven Drive
North Attleboro, MA 02760

Tel: 1 888 694 3230
Fax: 1 888 469 5402
Email: office@s-can.us

Quotation

Date	Quote #
4/16/2019	LLC19-3244

City of Cocoa

Terms	Rep Partner	Notes
Net 30		US Cocoa Ozone

Item	Description	Qty	Price Each	Total
SV-1DIT	One day on-site service for start-up & training	1	2,270.00	2,270.00
		Total		$2,270.00

David Fisher

From: Angley, Richie/ORL <Richie.Angley@jacobs.com>
Sent: Wednesday, April 24, 2019 10:50 AM
To: David Fisher
Subject: S::can ozone analyzer sole source

Hey David,

I spoke with Brittany Baker and she confirmed that s::can is the only manufacturer of a sensor to measure ozone via optical method.

One-of-a-kind:
S::can Measuring Systems LLC is the sole source provider of the ozo::lyser optical ozone sensor. There are no other known manufacturers of an online field sensor that measures ozone via optical method.
Why chosen:
This instrument will improve the ability to reliably produce safe drinking water. The s::can optical ozone sensor requires minimal maintenance compared to other ozone sensors. Unlike other sensors, expensive and recurrent probe replacements are not required. The only maintenance on the s::can sensor is keeping the optical path clean and clear which is accomplished with automated brushes.
Obtained from another source:
There are no other known manufacturers of an online field sensor that measures ozone via optical method.

Thanks,
Richie Angley, E.I.
Jacobs
Process Mechanical Engineer | Buildings and Infrastructure
407.650.2167
Richie.Angley@jacobs.com

225 E. Robinson Street, Suite 505
Orlando, FL 32801-4321
www.jacobs.com

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RESOLUTION NO. 2019-046

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AMENDING THE CITY OF COCOA BUDGET FOR FISCAL YEAR 2019; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Cocoa adopted the final budget for the fiscal year commencing on October 1, 2018, and ending on September 30, 2019, at a Special meeting held on September 13, 2018; and

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

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

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

SECTION 1. The 2018-2019 fiscal year budget shall be amended as detailed in the attached sheets.

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

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

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the 12th day of June, 2019.

_____
Jake Williams, Jr., Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk

City of Cocoa Budget Adjustment Form FY 2019 - 19-094

SELECT ADJUSTMENT TYPE: BUDGET TRANSFER | REQUESTING DEPARTMENT #: 4020 | DATE PREPARED: 05/10/19

'FROM' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
($ 17,000)	421-4020-536.34-00		Water Sewer / Contract Services	$ 483,450	$ 384,663	$ 367,663	$ 340,343
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
($ 17,000)	TOTAL						

'TO' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 17,000	421-4020-536.46-00		Water Sewer / Repair & Maintenance	$ 1,895,200	$ 1,958,662	$ 1,975,662	$ 487,129
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 17,000	TOTAL						

REASON/JUSTIFICATION FOR ADJUSTMENT:

The Dyal Water Treatment Plant requires a replacement Dissolved Ozone Analyzer to monitor the primary disinfectant required to run the Surface Water Plant. This analyzer will allow for greater operational flexibility and less down time. The dollars are available in our contract services budget due to savings from our new ground water sludge agreement with the Deseret Ranch who is now disposing of our sludge at no cost to the City of Cocoa. Agenda 19-250

CITY COUNCIL APPROVAL REQUIRED? YES (●) NO ( ) DATE APPROVED: 06/12/19 RESOLUTION #: 2019-046

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

5/10/19	David Fisher (Digitally signed by David Fisher Date: 2019.05.10 17:01:57 -04'00')	5/22/19	Lea Taylor (Digitally signed by Lea Taylor Date: 2019.05.22 12:02:10 -04'00')		
Date	Requestor's Signature	Date	Finance Approval Signature	Date	Finance Director's Signature
5/13/19	John "Jack" Walsh (Digitally signed by John "Jack" Walsh Date: 2019.05.13 09:46:22 -04'00')	5/28/19	Lora Howell (Digitally signed by Lora Howell Date: 2019.05.28 08:35:14 -04'00')		
Date	Department Director's Signature	Date	Deputy Fin. Director's Signature	Date	City Manager's Signature

FINANCE USE ONLY:

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

Legislation Details (With Text)

File #:	19-238	**Version:**	1	**Name:**	Cross Brands AVT Revocation
Type:	Ordinance			**Status:**	Public Hearing
File created:	5/10/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	
Title:	Hold second and final public hearing to approve an Ordinance No. 03-2019 revoking the economic development ad valorem tax exemption granted to Cross Brands Manufacturing, L.L.C., and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, pursuant to the terms set forth in Ordinance No. 03-2019. (Community Services Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Ordinance No. 03-2019 AVT Revocation - Cross Brands Notice of Termination - Grant Agt - Cross Brands Notice of Termination - Incentive Agt - Cross Brands Ad Valorem Tax Abatement Economic Incentive Agreement (Executed, recorded) Economic Development Incentive Grant Agreement (fully executed, recorded) NOTICE OF PUBLIC HEARINGOrderConf2nd Proof of Legal Advertisement				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: May 10, 2019
Agenda Date: June 12, 2019
Prepared By: Samia Singleton, Economic Development Specialist
Through: Nancy A. Bunt, Community Services Director
Requested Action:
Hold second and final public hearing to approve an Ordinance revoking the economic development ad valorem tax exemption granted to Cross Brands Manufacturing, L.L.C., and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, pursuant to the terms set forth in Ordinance No. 03-2019.

BACKGROUND:

In 2016, Cross Brands Manufacturing, L.L.C. requested an ad valorem tax exemption for the establishment of its business manufacturing and distributing health and beauty products in Cocoa, Florida. On May 24, 2016, the City granted Cross Brands an economic development ad valorem tax exemption for a period of seven (7) years, subject to the terms and conditions of Resolution 2014-18 and Ordinance 11-2016. Both instruments expressly authorize the City Council to revoke, by ordinance, an economic development ad valorem tax exemption if an applicant fails to comply with any term or condition of the exemption. Cross Brands moved its business out of the City of Cocoa in

or about August 2018. The move from the City of Cocoa was a breach of conditions specified by Ordinance 11-2016.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

N/A. Cross Brands has not received any ad valorem tax exemptions.

PREVIOUS ACTION:

On May 10, 2016, approved a Resolution certifying Cross Brands Manufacturing, LLC for an Ad Valorem Tax Abatement and authorized City Staff to retain a copy of the application for the City and to forward the Resolution and the original application to the Brevard Property Appraiser for review and evaluation.

On May 10, 2016, Ordinance No. 11-2016/First Reading: Granting Cross Brands Manufacturing, LLC and Ad Valorem Tax Abatement of 70 percent phased out over seven (7) years, and allow the City Manager to enter into an Economic Incentive Agreement between the City and the company.

On May 24, 2016, Ordinance No. 11-2016/Second and Final Reading: Granting Cross Brands Manufacturing, LLC and Ad Valorem Tax Abatement of 70 percent phased out over seven (7) years, and allow the City Manager to enter into an Economic Incentive Agreement between the City and the company.

On May 8, 2019, approved the first reading of Ordinance No. 03-2019 revoking the economic ad valorem tax exemption previously granted to Cross Brands Manufacturing, L.L.C.

RECOMMENDED MOTION:

Hold second and final hearing to approve an Ordinance revoking the economic development ad valorem tax exemption granted to Cross Brands Manufacturing, L.L.C., and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, pursuant to the terms set forth in Ordinance No. 03-2019.

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ORDINANCE NO. 03-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO CROSS BRANDS MANUFACTURING, L.L.C. ORIGINALLY AUTHORIZED BY ORDINANCE 11-2016; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City is granted the authority, under • 2(b), Art. VIII of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the Citizens of the City of Cocoa voted to provide economic incentives to new and expanding businesses in the November 8, 1995 general election and again during the 2005 and 2015 general elections; and

WHEREAS, in 2016, Cross Brands Manufacturing, L.L.C. ("Cross Brands") requested that the City exempt ad valorem taxes for the establishment of business manufacturing and distributing health and beauty products; and

WHEREAS, the City adopted Ordinance 11-2016 by which it granted Cross Brands an economic development ad valorem tax exemption for a period of seven (7) years, subject to the terms and conditions of Resolution 2014-18; and

WHEREAS, Resolution 2014-18 and Ordinance 11-2016 expressly authorize the City Council to revoke, by ordinance, any economic ad valorem tax exemption if an applicant fails to comply with any term or condition of the exemption, and additionally authorizes the City Council to reimpose any ad valorem taxes previously exempted; and

WHEREAS, Cross Brands has not received any exemptions pursuant to the Ordinance; and

WHEREAS, Cross Brands moved its business out of the City in or about August 2018, thereby not satisfying the conditions specified by Ordinance 11-2016; and

WHEREAS, the City desires to expressly revoke the economic development ad valorem tax exemption granted to Cross Brands, due to its breach of the specified conditions; and

WHEREAS, the City Council of the City of Cocoa, Florida, hereby finds this ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Cocoa.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COCOA HEREBY ORDAINS, AS FOLLOWS:

Section 1. **Recitals.** The foregoing recitals are hereby fully incorporated herein by reference as legislative findings of the City Council of the City of Cocoa.

Section 2. **Repeal of Economic Ad Valorem Tax Exemption.** The City Council of the City of Cocoa hereby repeals the economic development ad valorem tax exemption granted to Cross Brands Manufacturing, L.L.C. pursuant to Ordinance 11-2016.

Section 3. **Notice Provided to Brevard County Property Appraiser.** Upon adoption of this Ordinance by the City Council, the City Clerk shall send a certified copy of this Ordinance to the Brevard County Property Appraiser.

Section 4. **Repeal of Prior Inconsistent Ordinances and Resolutions.** All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 5. **Not Incorporated into Code.** This Ordinance shall not be incorporated into the Cocoa City Code.

Section 6. **Severability.** If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 7. **Effective Date.** This Ordinance shall become effective immediately upon adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the _____ day of _____, 2019.

_____
JAKE WILLIAMS, JR., Mayor

ATTEST:

_____
CARIE SHEALY, MMC
City Clerk

First Reading: _____
Legal Ad Published: _____
Effective Date: _____

Cross Brands Manufacturing, L.L.C.
Attn. Charles Kasten
1938 Murrell Road
Rockledge, Florida 32955

NOTICE OF TERMINATION
ECONOMIC DEVELOPMENT INCENTIVE GRANT AGREEMENT

Notice is given this 18th day of April, 2019 to Cross Brands Manufacturing, L.L.C. ("Cross Brands"):

A. On May 24, 2016, the City of Cocoa, Florida ("City") approved an Economic Development Incentive Fund for Cross Brands in the amount of $300 per new job created, not to exceed $18,000.

B. On May 24, 2016, Cross Brands entered into an Economic Development Incentive Grant Agreement with the City, which set forth the terms and conditions of Cross Brands' receipt of the grant funds. The Agreement is effective until such time as Cross Brands completes all of its obligations under the Agreement and receives its last annual ad valorem tax exemption pursuant to Ordinance 11-2016, unless earlier terminated.

C. Cross Brands has not received any reimbursements under the Agreement.

D. Pursuant to the Agreement, Cross Brands is required to submit annual reports no later than January 31st of each year (Section 4). Further, as a material condition to receiving the economic incentive, Cross Brands agreed to maintain its existing business operations within the jurisdictional boundaries of the City of Cocoa for the term of the Agreement (Section 2(b)).

E. Cross Brands has breached the terms of the Agreement by (i) failing to file annual reports for 2017 and 2018 and (ii) moving its business out of the City in or around August 2018.

In accordance with Section 9(d) of the Agreement, the City hereby notifies Cross Brands that it must cure the above-described material breaches within fifteen (15) days of receipt of this Notice.

Should Cross Brands fail to cure the breaches within the fifteen (15) day time period, then, pursuant to Section 9(e), the Agreement will be terminated and the economic development incentives thereby granted will be revoked.

CITY OF COCOA, FLORIDA

BY: _____
John Titkanich, Jr., AICP, ICMA-CM,
City Manager

DATED: 4/18/2019

Cross Brands Manufacturing, L.L.C.
Attn. Charles Kasten
1938 Murrell Road
Rockledge, Florida 32955

NOTICE OF TERMINATION OF ECONOMIC INCENTIVE AGREEMENT

Notice is given this 18th day of April, 2019 to Cross Brands Manufacturing, L.L.C. ("Cross Brands"):

A. On May 24, 2016, the City of Cocoa, Florida ("City") adopted Ordinance No. 11-2016, pursuant to which Cross Brands was granted an ad valorem tax exemption for a term of seven (7) years for the construction of its business facility in the City.

B. On May 24, 2016, Cross Brands entered into an Ad Valorem Tax Abatement Economic Incentive Agreement with the City, which set forth the terms and conditions of the economic incentive granted to Cross Brands. The term of the Agreement runs from the date of execution until one (1) year after Cross Brands receives the full benefit of the ad valorem tax exemption.

C. To date, Cross Brands has not been granted any ad valorem tax exemptions.

D. Pursuant to the Agreement, Cross Brands is required to submit annual reports no later than January 31st of each year (Section 4). Further, as a material condition to receiving the economic incentive, Cross Brands agreed to maintain its existing business operations within the jurisdictional boundaries of the City of Cocoa for the term of the Agreement (Section 2(b)).

E. Cross Brands has breached the terms of the Agreement by (i) failing to file annual reports for 2017 and 2018 and (i) moving its business out of the City in or around February 2018.

In accordance with Section 8(d) of the Agreement, the City hereby notifies Cross Brands that it must cure the above-described material breaches within fifteen (15) days of receipt of this Notice.

Should Cross Brands fail to cure the breaches within the fifteen (15) day time period, then, pursuant to Section 8(e), the Agreement will be terminated and the economic development incentives thereby granted will be revoked.

CITY OF COCOA, FLORIDA

BY: _____
John Titkanich, Jr., AICP, ICMA-CM,
City Manager

DATED: 4/18/2019

City of Cocoa
GE

CFN 2016161856, OR BK 7689 PAGE 825.
Recorded 08/18/2016 at 01:53 PM, Scott Ellis, Clerk of Courts, Brevard County
Pgs:7

SCANNED

AD VALOREM TAX ABATEMENT ECONOMIC INCENTIVE AGREEMENT

THIS ECONOMIC INCENTIVE AGREEMENT ("**Agreement**") is made and entered into this 24 day of May, 2016, by and between the **CITY OF COCOA, FLORIDA,** a Florida municipal corporation ("**City**"), and **CROSS BRANDS MANUFACTURING L.L.C.,** a Florida limited liability company ("**Cross Brands**").

RECITALS:

WHEREAS, Cross Brands is seeking incentives to develop a new business within the City of Cocoa for the manufacturing and distributing of health and beauty care products which would result in 60 full-time equivalent employees with an average annual wage of $45,000 and generate approximately $2,100,000 in new capital ($1,250,000 in building construction and $850,000 in machinery and equipment); and

WHEREAS, the City desires to provide Cross Brands with certain economic incentives in furtherance of the municipal purpose of expanding economic activity within its jurisdictional borders consistent with section 166.021(8), Florida Statutes; and

WHEREAS, the parties recognize this Agreement is necessary to ensure that the economic incentives provided by the City to Cross Brands ultimately serve their intended municipal purpose; and

WHEREAS, the City has established terms and conditions herein whereby Cross Brands, by complying with these terms and conditions, can receive the benefits outlined in this Agreement, while the City can fulfill its desire to support local employers, to create jobs and to significantly enhance the prospects of local economic development; and

WHEREAS, the parties agree that the economic incentives provided by the City hereunder are for the benefit of the public health, safety, welfare, and convenience of the citizens of the City of Cocoa; and

WHEREAS, the City Council finds and declares that this Agreement serves a public purpose, which includes promotion of economic development, job growth, and the future expansion of the City's tax base.

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

2. **Commitments by Cross Brands.**

(a) *New Construction of Facilities; Capital Investment.* Cross Brands hereby represents and warrants that it intends to expand the existing facility located at 851 Greensboro Road by constructing an office building of approximately 15,000 square feet within the jurisdictional boundaries of the City of Cocoa. In furtherance such new business, Cross Brands agrees to make a fixed capital investment of not less than $2,100,000 in new construction and tangible personal property prior to December 31, 2020.

(b) *Business Operations in Cocoa.* Cross Brands agrees to maintain its new operations within the jurisdictional boundaries of the City of Cocoa for the term of this Agreement.

(c) *Employees.* Cross Brands agrees that it shall employ at least 60 full-time equivalent employees within the jurisdictional boundaries of the City of Cocoa by December 31, 2020, and that the average annual salary of such employees shall be at least $45,000.00.

(d) *New Business.* Cross Brands represents and warrants that, for purposes of receiving the economic incentives provided to Cross Brands by this Agreement, Cross Brands currently meets the definition of "new business," as that term is defined by section 196.012(14), Florida Statutes. Cross Brands agrees to maintain its qualifications as a "new business" during the entire term of this Agreement.

3. **Ad Valorem Tax Exemption.** The parties acknowledge that in accordance with Ordinance Numbers 17-2014 and 23-2005, the electorate of the City of Cocoa has granted the City Council the authority to grant property tax exemptions for new businesses and expansions of existing businesses. The parties further acknowledge that Cross Brands' anticipated investment to real property and tangible personal property pursuant to the terms of this Agreement, and the City Council's determination that Cross Brands' continued operations in the City of Cocoa are critical for the future economic development of the City, render Cross Brands eligible for an ad valorem tax exemption. Cross Brands has filed an application for ad valorem tax exemption with the City, and the City has processed the application in good faith and in accordance with the requirements established by the City and under Florida law. Conditioned upon Cross Brands' continuing obligation to comply with the terms and conditions set forth in this Agreement, the City Council approved Ordinance No. 11-2016 on May 24, 2016, granting Cross Brands an ad valorem tax exemption for a term of seven (7) years, commencing with the first year the new improvements and personal property are added to the assessment roll, and lasting six (6) years thereafter, for seventy percent (70%) of the City ad valorem taxes for years 1 through 4, and subsequently as follows:

60% of the City ad valorem taxes for year 5,
50% of the City ad valorem taxes for year 6,
40% of the City ad valorem taxes for year 7.

4. **Annual Reports.** Cross Brands shall submit to the City an annual report on a form proscribed by the City, along with any necessary supporting documentation, providing

evidence of continued compliance with the terms of this Agreement, and shall specifically provide evidence of continued compliance with the definition of a "new business" as set forth in section 196.012(14), Florida Statutes, for each of the seven (7) years Cross Brands receives the ad valorem tax exemption. The annual report shall be provided to the City no later than January 31 of each year. Cross Brands shall also submit any other information or reports as the City Manager or City Council may deem reasonably necessary for purposes of determining whether Cross Brands is complying with the terms and conditions of this Agreement.

5. **Compliance with Laws.** Cross Brands shall be responsible for complying with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority regarding the location and continued operation of its business within the City of Cocoa.

6. **Work is a Private Undertaking.** With regard to Cross Brands' business operation and compliance with applicable laws, rules, and regulations, it is specifically understood and agreed to by and between the parties hereto that the contractual relationship between the City and Cross Brands is such that Cross Brands is an independent contractor and not an agent of the City, and that this is not a business partnership or joint venture agreement. Cross Brands and its contractors, partners, agents, and employees are independent contractors and not employees of the City, and Cross Brands shall be in complete control over its business operations. Nothing in this Agreement shall be interpreted to establish any relationship other than that of an independent contractor, between the City and Cross Brands, its contractors, partners, employees, or agents, under this Agreement.

7. **Compliance Monitoring.** Cross Brands agrees that City control and monitoring of the economic incentives granted hereunder is necessary to insure that Cross Brands' implementation of its obligations to the City set forth in this Agreement are in furtherance of the municipal purposes declared by the City herein.

8. **Term; Termination; Remedies.**

(a) *Term.* This Agreement shall become effective upon full execution by both parties hereto and shall terminate one (1) year after Cross Brands has received the full benefit of the ad valorem tax exemption granted pursuant to Section 3 herein, unless the Agreement is terminated pursuant to this Section.

(b) *Termination by City.* The City shall have the right to terminate this Agreement upon any material breach of any term or condition of this Agreement by Cross Brands; if Cross Brands is declared bankrupt or insolvent; if Cross Brands adopts a plan or resolution of liquidation of Cross Brands or sells substantially all of its assets; if Cross Brands engages in fraud or misleading compliance reporting against the City; or if a receiver or trustee is appointed on behalf of Cross Brands for purposes of taking control of substantially all of Cross Brands' assets within the City of Cocoa, or the said assets are judicially seized for any reason, and possession of said assets are not released to Cross Brands within ninety (90) days.

(c) *Termination by Cross Brands.* Cross Brands may terminate this Agreement in the event of a material breach of any provision of this Agreement by the City,

which shall include, but not be limited to, failing to fulfill any of its legal obligations under Section 3, herein.

(d) *Notice; Opportunity to Cure.* Prior to exercising its right to terminate this Agreement, the terminating party shall provide written notice to the non-terminating party setting forth the reason for termination and providing the non-terminating party 15 days from receipt of the notice to cure the alleged breach. If the alleged breach is not cured within said time period, this Agreement shall be deemed terminated, except with respect to any provision that affords a remedy in the event of a breach and any provision that expressly survives termination.

(e) *Remedies.* In the event of Cross Brands' breach of this Agreement, the City shall have the right to revoke the economic development incentives and to re-impose, in full, the ad valorem taxes waived pursuant to Section 3 herein, plus interest accrued at the maximum rate allowed by law. The City shall notify Cross Brands in writing regarding the revocation of the economic development incentives and such notice shall set forth the total sum due and owing to the City. Cross Brands shall reimburse the City within 30 days from Cross Brands' receipt of the City's notice unless Cross Brands cures the breach within 15 days of receiving the notice. Should Cross Brands fail to reimburse the City within 30 days, the City shall be entitled to recover the taxes due and owing to the City. Further, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in collecting said taxes through all appellate proceedings. Moreover, the City shall have the right to recover the taxes through any and all available legal means, including, but not limited to, reassessing taxes and assessments on the tax roles of Brevard County, Florida, and bringing an action in a state or federal court.

9. **Severability.** Should any section or any part of any section 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 section or any part of any section in this Agreement.

10. **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 Orlando, Florida for all federal court actions or disputes which arise out of or are based upon this Agreement.

11. **Integration; Modification.** The drafting, execution, and delivery of this Agreement by the parties have not been induced by any 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.

12. **Attorney's Fees.** Unless otherwise provided herein, each party agrees to bear their own attorneys' fees and costs in furtherance of this Agreement.

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

14. **Waiver.** No failure to insist on the prompt performance by Cross Brands 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 Cross Brands' 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.

15. **Notices.** All notices required or permitted under this Agreement and any written consents or approvals required hereunder shall be in writing (including telecopy communication) and shall be (as elected by the person giving such notice) hand-delivered by messenger or overnight courier service, telecopied or mailed by registered or certified mail (postage pre-paid), return receipt requested, and addressed to each party at their respective addresses as set forth below or to such other addresses any party may designate by notice complying with the terms of this Section:

To CITY:

John A. Titkanich, AICP
Cocoa City Manager
65 Stone Street
Cocoa, FL 32922

w/copy to:

Anthony A. Garganese, City Attorney
Garganese, Weiss & D'Agresta, P.A.
P.O. Box 2873
Orlando, FL 32802-2873

To CROSS BRANDS:

Cross Brands Manufacturing L.L.C.
Attn: GENERAL COUNSEL
851 Greensboro Road
Cocoa, Florida 32926

Such notice, request or other communication shall be considered given and deemed delivered: (a) on the date delivered if by personal delivery or courier service; (b) on the date of transmission with confirmed answer back if by telecopier if transmitted prior to 5:00 p.m. on a business day, and on the next business day if transmitted after 5:00 p.m. or on a non-business day, provided that a copy of the notice is provided within two business days thereafter by one of the other methods permitted by this Section; or (c) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed.

16. **Indemnification and Hold Harmless**. Cross Brands shall indemnify, hold harmless, and defend the City, from and against any and all claims, damages, losses, and expenses including, but not limited to, attorneys' fees, arising out of or resulting from the performance or provision of the terms and conditions of this Agreement, including damage to persons or property, provided that same is caused in whole or part by the error, omission,

negligent act, failure to act, malfeasance, misfeasance, conduct, or misconduct of Cross Brands, its agents, servants, officers, officials, employees, or subcontractors.

The obligations arising under this Section 16 shall survive the expiration or termination of this Agreement, as to claims or causes of action, and liabilities, expenses, losses, costs, reasonable attorneys fees, damages, fines and penalties of every kind and character or incurred or suffered by the City as a result thereof, based upon events arising prior to the date of termination of this Agreement.

17. **Assignment.** This Agreement shall not be assigned by Cross Brands without the prior written consent of the City.

18. **No City Obligation for Future Funds.** No provision in this Agreement shall be construed as requiring the City to provide additional economic incentives of any kind, other than as specifically provided herein.

19. **Conflict of Interest.** Cross Brands represents and warrants, and this Agreement is being made by the City in reliance thereon, that Cross Brands and its officers, employees, and agents are neither officers nor employees of the City. Further, that no consideration of any kind is being paid, transferred, or conveyed directly to any City officer or employee, or indirectly to any City officer or employee through some other third party including a relative or legal entity, for the City's commitment to enter into this Agreement.

20. **Representations of Cross Brands.** Cross Brands represents to the City that (i) Cross Brands is duly authorized to conduct business in Florida; (ii) Cross Brands has the authority to enter into this Agreement and to perform the requirements of this Agreement; (iii) to Cross Brands' best knowledge, Cross Brands' performance under this Agreement shall not violate any applicable judgment, order, law, or regulation; (iv) to Cross Brands' best knowledge, Cross Brands' performance under this Agreement shall not result in the creation of any claim against the City for money or performance, any lien, charge, encumbrance or security interest upon any asset of the City; (v) Cross Brands shall have sufficient capital to perform its obligations under this Agreement; and (vi) Cross Brands does not require any third party consent to execute, deliver, and perform its obligations under this Agreement unless otherwise stated in this Agreement.

21. **Cross Brands' Continuing Disclosure Requirement.** Cross Brands must promptly notify the City of any developments that materially and adversely impact this Agreement and Cross Brands' obligations stated herein including, but not limited to, compliance with all applicable laws, rules, and regulations pertaining to clean air permits, initiation of any law suits or bankruptcy proceedings, sale or conveyance of real property, labor disputes, and changes in business operations.

22. **No Delegation of Police Power.** Cross Brands shall not pledge the credit of the City nor make the City a guarantor of payment or surety for any contract, debt, or obligation, judgment, lien, or any form of indebtedness. The parties agree that this Agreement does not nor

shall it be construed as a delegation of any of the City's authority or police powers to Cross Brands.

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

The City of Cocoa,
a Florida municipal corporation.

John A. Titkanich, City Manager

Date: 5/24/2016

ATTEST:

Carie Spealy, City Clerk

CROSS BRANDS MANUFACURING L.L.C.,
a Florida limited liability company.

Name: Daniel C Beard
Title: VP

Date: 5/2/16

STATE OF Fl)
COUNTY OF Brevard)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Daniel C Beard, n/A of **CROSS BRANDS MANUFACURING L.L.C.**, a Florida limited liability company, who is [ ] personally known to me or [✓] has produced FL DL as identification.

CHRYSTIE ROBIDA
Notary Public - State of Florida
My Comm. Expires Sep 11, 2018
Commission # FF 159276

Notary Public - State of Fl
Chrystie Robida
Printed Name
My Commission Expires: 09/11/2018

City of Cocoa
JE

CFN 2016161856, OR BK 7689 PAGE 825.
Recorded 08/18/2016 at 01:53 PM, Scott Ellis, Clerk of Courts, Brevard County
Pgs:7

AD VALOREM TAX ABATEMENT ECONOMIC INCENTIVE AGREEMENT

THIS ECONOMIC INCENTIVE AGREEMENT ("**Agreement**") is made and entered into this 24 day of May, 2016, by and between the **CITY OF COCOA, FLORIDA,** a Florida municipal corporation ("**City**"), and **CROSS BRANDS MANUFACTURING L.L.C.,** a Florida limited liability company ("**Cross Brands**").

RECITALS:

WHEREAS, Cross Brands is seeking incentives to develop a new business within the City of Cocoa for the manufacturing and distributing of health and beauty care products which would result in 60 full-time equivalent employees with an average annual wage of $45,000 and generate approximately $2,100,000 in new capital ($1,250,000 in building construction and $850,000 in machinery and equipment); and

WHEREAS, the City desires to provide Cross Brands with certain economic incentives in furtherance of the municipal purpose of expanding economic activity within its jurisdictional borders consistent with section 166.021(8), Florida Statutes; and

WHEREAS, the parties recognize this Agreement is necessary to ensure that the economic incentives provided by the City to Cross Brands ultimately serve their intended municipal purpose; and

WHEREAS, the City has established terms and conditions herein whereby Cross Brands, by complying with these terms and conditions, can receive the benefits outlined in this Agreement, while the City can fulfill its desire to support local employers, to create jobs and to significantly enhance the prospects of local economic development; and

WHEREAS, the parties agree that the economic incentives provided by the City hereunder are for the benefit of the public health, safety, welfare, and convenience of the citizens of the City of Cocoa; and

WHEREAS, the City Council finds and declares that this Agreement serves a public purpose, which includes promotion of economic development, job growth, and the future expansion of the City's tax base.

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

ECONOMIC DEVELOPMENT INCENTIVE GRANT AGREEMENT

THIS ECONOMIC DEVELOPMENT INCENTIVE GRANT AGREEMENT ("**Agreement**") is made and entered into this ____ day of _____, 2016, by and between the **CITY OF COCOA, FLORIDA,** a Florida municipal corporation ("**City**"), and **CROSS BRANDS MANUFACTURING L.L.C.,** a Florida limited liability company located at 851 Greensboro Road, Cocoa, Florida 32926 ("**Cross Brands**").

RECITALS:

WHEREAS, section 166.021(8), Florida Statutes provides that the Legislature has determined that there is a need to enhance and expand economic activity within municipalities by attracting and retaining business enterprises; and

WHEREAS, section 166.021(8)(b) also expressly provides that a municpality may expend public funds to attract and retain business enterprises and that the use of such funds toward the achievement of such economic development goals constitutes a public purpose; and

WHEREAS, the City is also vested with broad municpal home rule powers granted by s. 2(b), Art. VIII of the Florida Constitution, which would include the power to provide economic incentives to businesses to locate and expand within the City of Cocoa; and

WHEREAS, the City Council has established a strategic priority to pursue economic development and diversification of the City's tax base to facilitate job creation; and

WHEREAS, Cross Brands is seeking incentives to develop a new business within the City of Cocoa for the manufacturing and distributing of health and beauty care products which would generate approximately $2,100,000 in capital ($1,250,000 in building construction and $850,000 in machinery and equipment); and

WHEREAS, the City desires to provide Cross Brands with certain economic incentives in furtherance of the municipal purpose of expanding economic activity within its jurisdictional borders consistent with section 166.021(8), Florida Statutes; and

WHEREAS, Cross Brands intends to increase the number of persons it employs by at least 60 full-time equivalent jobs by December 31, 2020, and that the average annual salary of its employees shall be at least $45,000.00; and

WHEREAS, on May 24, 2016, the City Council approved an Economic Development Incentive (EDI) Fund for Cross Brands in the amount of $300 per new job created, not to exceed $18,000, subject to the terms and conditions herein; and

WHEREAS, by separate action independent of this Agreement, the City Council also approved Ordinance No. 11-2016 on May 24, 2016, granting Cross Brands an ad valorem tax exemption for a term of seven (7) years, commencing with the first year the new improvements and personal property are added to the assessment roll, and lasting six (6) years thereafter, for seventy percent (70%) of the City's ad valorem taxes phased out over the seven year term; and

3. **Economic Development Incentive Grant Award.** The parties acknowledge that the economic development incentive grant award to Cross Brands shall be subject to Resolution 2014-19. Further, the grant award authorized by this Agreement, in accordance with Resolution 2014-19, shall be on a reimbursement basis and shall be subject to the following minimum requirements:

(a) Cross Brands is authorized to receive a grant award from the City in the amount of up to Three-Hundred and No/00 Dollars ($300) per new employee, not to exceed the total sum of Eighteen-Thousand and No/00 Dollars ($18,000.00) ("**Grant Award**"), which Grant Award may only be utilized for the limited expenditures authorized in Resolution 2014-19, attached herto and fully incorporated herein by this reference as **Exhibit "A"**. In no event shall Cross Brands receive Grant Award funds in excess of $18,000.00 under this Agreement, without separate and additonal approval of the City Council.

(b) The Grant Award shall be based solely on out-of-pocket costs incurred by Cross Brands and shall not include any in-kind contributions or internal work performed by the recipient and recipient's employees.

(c) Before any reimbursement is made by the City, the City's Community Service Department must confirm and verify that Cross Brands has fully completed and paid for the expenditures authorized to be reimbursed pursuant to this Grant Agreement. Verification shall require that, at a minimum, Cross Brands will provide the City a complete written accounting of eligible out-of-pocket costs incurred by Cross Brands. The accounting shall include copies of all applicable receipts, invoices, payment documentation, and completion certificates. Within ten (10) City working days of receipt of a complete accounting from Cross Brands, the Community Services Department will evaluate the written accounting and determine whether Cross Brands has fully satisfied the applicable reimbursement provisions of this Agreement and the eligible out-of-pocket costs as required by this Agreement. If the Community Services Department verifies that the reimbursement provisions have been satisfied and that the out-of-pocket costs are eligible for reimbursement, the City will promptly provide written notice to Cross Brands that verification has been determined and the Grant Award, or applicable portion thereof, will be made within thirty (30) days of said notice. In the event the Community Services Department cannot make such verification, based on the accounting provided by Cross Brands, the City will provide written notice to Cross Brands of such determination and Cross Brands will be provided additional time to make the verification required to support the Grant Award authorized by this Agreement.

(d) The City shall have the right to rescind this Grant Agreement and demand an immediate refund of any Grant Award provided by the City if Cross Brands fails to comply with any material terms or condition set forth in this Grant Agreement.

(e) This Agreement is subject to all of the terms and conditions set forth in Resolution 2014-19, whether or not any such term or condition is explictly referred to herein.

4. **Annual Reports.** Cross Brands shall submit to the City an annual report on a form proscribed by the City, along with any necessary supporting documentation, providing

evidence of continued compliance with the terms of this Agreement, and shall specifically provide evidence of continued compliance with the definition of "new business" as set forth in section 196.012(14), Florida Statutes, until Cross Brands meets all of its obligations under this Agreement. The annual report shall be provided to the City no later than January 31 of each year. Cross Brands shall also submit any other information or reports as the City Manager or City Council may deem reasonably necessary for purposes of determining whether Cross Brands is complying with the terms and conditions of this Agreement.

5. **Supplemental Incentives; Appropriations.** The Grant Award shall be deemed supplemental to any other economic development incentive program offered by the City. Nothing herein shall be construed or interpreted as requiring the City Council to budget and appropriate any funds except as specifically authorized herein. Any and all such appropriations are made at the sole discretion of the City Council.

6. **Compliance with Laws.** Cross Brands shall be responsible for complying with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority regarding the location and continued operation of its business within the City of Cocoa.

7. **Work is a Private Undertaking.** With regard to Cross Brands' business operation and compliance with applicable laws, rules, and regulations, it is specifically understood and agreed to by and between the parties hereto that the contractual relationship between the City and Cross Brands is such that the Cross Brands is an independent contractor and not an agent of the City, and that this is not a business partnership or joint venture agreement. Cross Brands and its contractors, partners, agents, and employees are independent contractors and not employees of the City, and Cross Brands shall be in complete control over its business operations. Nothing in this Agreement shall be interpreted to establish any relationship other than that of an independent contractor, between the City and Cross Brands, its contractors, partners, employees, or agents, under this Agreement.

8. **Compliance Monitoring.** Cross Brands agrees that City control and monitoring of the economic incentives granted hereunder is necessary to insure that Cross Brands' implementation of its obligations to the City set forth in this Agreement are in furtherance of the municipal purposes declared by the City herein.

9. **Term; Termination; Remedies.**

(a) *Term.* This Agreement shall become effective upon full execution by both parties hereto. Unless this Agreement is terminated sooner by Cross Brands or the City pursuant to this Section, this Agreement shall remain binding and in effect until such time that Cross Brands has completed all of its obligations under this Agreement to the complete satisfaction of the City and Cross Brands has received its last annual ad valorem tax exemption pursuant to City Ordinance No. 11-2016. Upon such occurrence, this Agreement shall be deemed terminated and the parties will no longer have any rights, obligations or responsibilities under this Agreement.

(b) *Termination by City.* The City shall have the right to terminate this Agreement for cause including, but not limited to, on the basis of the following reasons: (1) Cross Brands has defaulted upon any material term or condition of this Agreement especially,

without limitation, the commitments made by Cross Brands which are set forth in Section 2 of this Agreement; (2) Cross Brands intentionally ceases operations of the operation of its business at the expansion site within the City during the Term of this Agreement; (3) Cross Brands is declared bankrupt or insolvent; (4) Cross Brands adopts a plan or resolution of liquidation of Cross Brands or sells substantially all of its assets; (5) Cross Brands engages in fraud or misleading annual reporting under Section 4 of this Agreement against the City; (6) Cross Brands engages in fraud or misleading accounting under the verification procedure set forth in Section 3(c) of this Agreement against the City; (7) any of Cross Brands' representations and warranties set forth in this Agreement are materially untrue at any time during the Term; (8) if a receiver or trustee is appointed on behalf of Cross Brands for purposes of taking control of the business expansion site with the City or substantially all of Cross Brands' assets within the City; (9) the business expansion site in the City or said assets are judicially seized for any reason, and possession of the business expansion site or said assets are not released to Cross Brands within ninety (90) days; or (10) Cross Brands engages in any criminal activities related to securing the approval of this Agreement from the City or related to Cross Brands' performance of the terms and conditions set forth in this Agreement.

(c) *Termination by Cross Brands.* Cross Brands may terminate this Agreement in the event of a material breach of any provision of this Agreement by the City, which shall include, but not be limited to, failing to fulfill any of its legal obligations under Section 3, herein.

(d) *Notice; Opportunity to Cure.* Prior to exercising its right to terminate this Agreement, the terminating party shall provide written notice to the non-terminating party setting forth the reason for termination and providing the non-terminating party 15 days from receipt of the notice to cure the alleged breach. If the alleged breach is not cured within said time period, this Agreement shall be deemed terminated, except with respect to any provision that affords a remedy in the event of a breach and any provision that expressly survives termination.

(e) *Remedies.* In the event of Cross Brands' breach of this Agreement, the City shall have the right to revoke the economic development incentives and to demand an immediate refund, in full, of the Grant Award provided to Cross Brands pursuant to Section 3 herein, plus interest accrued at the maximum rate allowed by law. The City shall notify Cross Brands in writing regarding the revocation of the economic development incentives and such notice shall set forth the total sum due and owing to the City ("Refund Notice"). Cross Brands shall reimburse the City within 30 days from Cross Brands' receipt of the Refund Notice. Should Cross Brands fail to reimburse the City within 30 days of receipt of the Refund Notice, the City shall be entitled to recover the refund due and owing to the City. Further, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in collecting said taxes through all appellate proceedings. Moreover, the City shall have the right to recover the Grant Award through any and all available legal means, including, but not limited to, bringing an action in a state or federal court.

10. **Severability.** Should any section or any part of any section 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 section or any part of any section in this Agreement.

11. **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 Orlando, Florida for all federal court actions or disputes which arise out of or are based upon this Agreement.

12. **Integration; Modification.** The drafting, execution, and delivery of this Agreement by the parties have not been induced by any 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.

13. **Attorney's Fees.** Unless otherwise provided herein, each party agrees to bear their own attorneys' fees and costs in furtherance of this Agreement.

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

15. **Waiver.** No failure to insist on the prompt performance by Cross Brands 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 Cross Brands'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.

16. **Notices.** All notices required or permitted under this Agreement and any written consents or approvals required hereunder shall be in writing (including telecopy communication) and shall be (as elected by the person giving such notice) hand-delivered by messenger or overnight courier service, telecopied or mailed by registered or certified mail (postage pre-paid), return receipt requested, and addressed to each party at their respective addresses as set forth below or to such other addresses any party may designate by notice complying with the terms of this Section:

To CITY:	w/copy to:
John A. Titkanich, AICP Cocoa City Manager 65 Stone Street Cocoa, FL 32922	Anthony A. Garganese, City Attorney Garganese, Weiss & D'Agresta, P.A. P.O. Box 2873 Orlando, FL 32802-2873

To CROSS BRANDS:

Cross Brands Manufacturing, L.L.C.
Attn: GENERAL COUNSEL
851 Greensboro Road
Cocoa, Florida 32926
Telephone: _____
Fax: _____

Such notice, request or other communication shall be considered given and deemed delivered: (a) on the date delivered if by personal delivery or courier service; (b) on the date of transmission with confirmed answer back if by telecopier if transmitted prior to 5:00 p.m. on a business day, and on the next business day if transmitted after 5:00 p.m. or on a non-business day, provided that a copy of the notice is provided within two business days thereafter by one of the other methods permitted by this Section; or (c) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed.

17. **Indemnification and Hold Harmless**. Cross Brands shall indemnify, hold harmless, and defend the City, from and against any and all claims, damages, losses, and expenses including, but not limited to, attorneys' fees, arising out of or resulting from the performance or provision of the terms and conditions of this Agreement, including damage to persons or property, provided that same is caused in whole or part by the error, omission, negligent act, failure to act, malfeasance, misfeasance, conduct, or misconduct of Cross Brands, its agents, servants, officers, officials, employees, or subcontractors.

Cross Brands acknowledges the broad nature of the indemnification provided in this Section and further acknowledges that the City would not have entered into this Agreement without the inclusion of this indemnification and voluntarily makes this covenant and expressly acknowledges receipt of good and valuable consideration provided by the City in support of this indemnification clause. Notwithstanding, this indemnification clause shall not be interpreted as obligating Cross Brands to indemnify the City for events arising solely from the acts or omissions of the City and its officials, employees and agents.

18. **Assignment.** This Agreement shall not be assigned or transferred by Cross Brands without the prior written consent of the City Council of Cocoa at its sole discretion at a duly held public meeting.

19. **No City Obligation for Future Funds.** No provision in this Agreement shall be construed as requiring the City to provide additional economic incentives of any kind, other than as specifically provided herein.

20. **Conflict of Interest**. Cross Brands represents and warrants, and this Agreement is being made by the City in reliance thereon, that Cross Brands and its officers, employees, and agents are neither officers nor employees of the City. Further, that no consideration of any kind is being paid, transferred, or conveyed directly to any City officer or employee, or indirectly to

any City officer or employee through some other third party including a relative or legal entity, for the City's commitment to enter into this Agreement.

21. **Representations of Cross Brands.** Cross Brands represents to the City that (i) Cross Brands is duly authorized to conduct business in Florida; (ii) Cross Brands has the authority to enter into this Agreement and to perform the requirements of this Agreement; (iii) to Cross Brands's best knowledge, Cross Brands's performance under this Agreement shall not violate any applicable judgment, order, law, or regulation; (iv) to Cross Brands's best knowledge, Cross Brands's performance under this Agreement shall not result in the creation of any claim against the City for money or performance, any lien, charge, encumbrance or security interest upon any asset of the City; (v) Cross Brands shall have sufficient capital to perform its obligations under this Agreement; and (vi) Cross Brands does not require any third party consent to execute, deliver, and perform its obligations under this Agreement unless otherwise stated in this Agreement.

22. **Cross Brands's Continuing Disclosure Requirement.** Cross Brands must promptly notify the City of any developments that materially and adversely impact this Agreement and Cross Brands's obligations stated herein including, but not limited to, compliance with all applicable laws, rules, and regulations pertaining to clean air permits, initiation of any law suits or bankruptcy proceedings, sale or conveyance of real property, labor disputes, and changes in business operations.

23. **No Delegation of Police Power; Governmental Authority.** Cross Brands shall not pledge the credit of the City nor make the City a guarantor of payment or surety for any contract, debt, or obligation, judgment, lien, or any form of indebtedness. The parties agree that this Agreement does not nor shall it be construed as a delegation of any of the City's authority or police powers to Cross Brands. The parties also specifically acknowledge and agree that this Agreement shall not limit or restrict the City's discretion in the exercise of its legislative, quasi-judicial, executive, governmental or police powers regarding the contents of any permit applications filed by Cross Brands with the City, and that the City does not guarantee any particular result for Cross Brands in connection with its applications for permits. The parties also acknowledge that all governmental actions to be taken by the City and its City Council, officials, employees, and boards shall be in conformance with applicable laws and ordinances with no guarantees or agreement by the City as to any particular recommendation or approval. Further, nothing in this Agreement shall be construed to waive or limit the City's governmental authority as a municipality to regulate Cross Brands or its operations.

24. **Time.** Time is of the essence of this Agreement and every term and provision of this Agreement.

25. **Cash Incentive Pledge; Taxing Power of the City.** The Grant Award required by Section 3 of this Agreement is being pledged by the City solely from the City's current assigned fund balance for economic development catalyst projects. During the term of this Agreement, Eighteen Thousand Dollars ($18,000.00) will be reserved by the City for purposes of paying Cross Brands the Grant Award pursuant to and conditioned upon the terms and conditions of this Agreement ("Pledged Fund"). This Agreement shall not be or constitute general

obligations or indebtedness of the City as "bonds" within the meaning of any constitutional or statutory provision, but shall be considered an economic incentive payable solely from the Pledged Fund in the manner and to the extent provided by this Agreement. Neither the full faith and credit of the City or any agency thereof is pledged to the payment of the Grant Award or any other economic incentive required by the City under the terms and conditions of this Agreement. No person or entity, including but not limited to, Cross Brands shall ever have the right to compel the exercise of any ad valorem taxing power by the City or agency thereof to pay the Grant Award or any other economic incentive offered by the City, or be entitled to payment of such Grant Award or any other such economic incentive from any money of the City or agency thereof except from the Pledged Fund in a manner and to the extent required by this Agreement. The Grant Award obligation or any other economic incentive offered by the City under this Agreement shall not constitute a lien upon any property or facility of the City.

26. **Limitations on Liability.** Unless otherwise expressly provided in this Agreement, the following limitations on liability shall apply in addition to any other limitations expressly stated herein:

(a) In no event shall Cross Brands be entitled to pursue an action for damages against the City for sums in excess of the amount of the Grant Award. The City's monetary liabilities shall in all instances be limited to the unpaid portion of the Grant Award hereunder.

(b) Except as expressly set forth herein, EACH PARTY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICES, IN ALL CASES WITH RESPECT THERETO.

(c) NO PARTY SHALL BE ENTITLED TO RECOVER FROM THE OTHER PARTY ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES IN CONNECTION WITH THIS AGREEMENT OR ANY RIGHTS GRANTED HEREUNDER.

27. **Survival.** The obligations arising under Sections 3(d) regarding a Grant Refund, 17, 26 and any other provision limiting the City's liability under this Agreement shall survive the expiration or termination of this Agreement, as to claims or causes of action, and liabilities, expenses, losses, costs, damages, fines and penalties of every kind and character or incurred or suffered by either party based upon events arising prior to the date of expiration or termination of this Agreement.

(Signature Page Follows)

shall it be construed as a delegation of any of the City's authority or police powers to Cross Brands.

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

The City of Cocoa,
a Florida municipal corporation.

John A. Titkanich, City Manager

Date: 5/24/2016

ATTEST:

Carrie Sealy, City Clerk

CROSS BRANDS MANUFACURING L.L.C.,
a Florida limited liability company.

Name: Daniel C Board
Title: VP

Date: 5/2/16

STATE OF Fl)
COUNTY OF Brevard)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Daniel C Board, n/A of **CROSS BRANDS MANUFACURING L.L.C.**, a Florida limited liability company, who is [ ] personally known to me or [✓] has produced FL DL as identification.

Notary Public - State of Fl
Printed Name: Chrystie Robida
My Commission Expires: 09/11/2018

CHRYSTIE ROBIDA
Notary Public - State of Florida
My Comm. Expires Sep 11, 2018
Commission # FF 159276

FLORIDA TODAY
FLORIDATODAY.com
A GANNETT COMPANY

Classified Ad Receipt
(For Info Only - NOT A BILL)

Customer: CITY OF COCOA (TE)

Address: 65 STONE ST
COCOA FL 32922
USA

Ad No.: 0003559909
Pymt Method Invoice
Net Amt: $297.26

Run Times: 1

No. of Affidavits: 1

Run Dates: 05/14/19

Text of Ad:

AD#3559909, 5/14/2019
CITY OF COCOA
NOTICE OF PUBLIC HEARING

May 22, 2019

NOTICE is hereby given that the City of Cocoa, Florida, will hold a Public Hearing at 6:00 p.m. on Wednesday, May 22, 2019, in City Council Chambers, located at 65 Stone Street, in Cocoa, Florida.

The City Council will consider adopting the following Ordinances on Second Reading, titled as follows:

ORDINANCE 03-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO CROSS BRANDS MANUFACTURING, L.L.C. ORIGINALLY AUTHORIZED BY ORDINANCE 11-2016; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

ORDINANCE NO. 05-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO DIAMONDBACK CNC, LLC ORIGINALLY AUTHORIZED BY ORDINANCE 08-2012; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

ORDINANCE NO. 06-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO GENO, LLC ORIGINALLY AUTHORIZED BY ORDINANCE 12-2015; REIMPOSING THE AD VALOREM TAXES EXEMPTED FOR 2016 PURSUANT TO ORDINANCE 12-2015 TO THE EXTENT ALLOWED BY LAW; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

ORDINANCE NO. 07-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO PARAGON PLASTICS, INC. ORIGINALLY AUTHORIZED BY ORDINANCE 17-2011; REIMPOSING THE AD VALOREM TAXES EXEMPTED FOR 2016 PURSUANT TO ORDINANCE 17-2011 TO THE EXTENT ALLOWED BY LAW; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

This is a public meeting. All interested parties may attend. The facility wherein the public meeting will be held is accessible to the physically handicapped.

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

Members of the public are encouraged to comment on the proposed ordinances

to comment on the proposed ordinances at the meeting. Comments may also be submitted in writing to the Office of the City Clerk, 65 Stone Street, Cocoa, FL 32922, or by email (cshealy@cocoafl.org), or by telephone by calling (321) 433-8484.

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 (321) 433-8484

Further information may be obtained by calling the City Clerk at the above listed number.

Dated this the 10th
day of May, 2019.
Carie Shealy, MMC, City Clerk

FLORIDA TODAY
FLORIDATODAY.com
A GANNETT COMPANY

Classified Ad Receipt
(For Info Only - NOT A BILL)

Customer: CITY OF COCOA (TE)

Address: 65 STONE ST
COCOA FL 32922
USA

Ad No.: 0003593613
Pymt Method Invoice
Net Amt: $379.34

Run Times: 1

No. of Affidavits: 1

Run Dates: 06/02/19

Text of Ad:

CITY OF COCOA
NOTICE OF PUBLIC HEARING

June 12, 2019

NOTICE is hereby given that the City of Cocoa, Florida, will hold a Public Hearing at 6:00 p.m. on Wednesday, June 12, 2019, in City Council Chambers, located at 65 Stone Street, in Cocoa, Florida.

The City Council will consider adopting the following Ordinances on Second Reading, titled as follows:

ORDINANCE 03-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO CROSS BRANDS MANUFACTURING, L.L.C. ORIGINALLY AUTHORIZED BY ORDINANCE 11-2016; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

ORDINANCE NO. 05-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO DIAMONDBACK CNC, LLC ORIGINALLY AUTHORIZED BY ORDINANCE 08-2012; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO GENO, LLC ORIGINALLY AUTHORIZED BY ORDINANCE 12-2015; REIMPOSING THE AD VALOREM TAXES EXEMPTED FOR 2016 PURSUANT TO ORDINANCE 12-2015 TO THE EXTENT ALLOWED BY LAW; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

ORDINANCE NO. 07-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO PARAGON PLASTICS, INC. ORIGINALLY AUTHORIZED BY ORDINANCE 17-2011; REIMPOSING THE AD VALOREM TAXES EXEMPTED FOR 2016 PURSUANT TO ORDINANCE 17-2011 TO THE EXTENT ALLOWED BY LAW; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

This is a public meeting. All interested parties may attend. The facility wherein the public meeting will be held is accessible to the physically handicapped.

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

Members of the public are encouraged to comment on the proposed ordinances at the meeting. Comments may also be

at the meeting. Comments may also be submitted in writing to the Office of the City Clerk, 65 Stone Street, Cocoa, FL 32922, or by email (cshealy@cocoafl.org), or by telephone by calling (321) 433-8484.

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 (321) 433-8484

Further information may be obtained by calling the City Clerk at the above listed number.

Dated this the 13th
day of May, 2019.

Carie Shealy, MMC, City Clerk

Legislation Details (With Text)

File #:	19-239	**Version:**	1	**Name:**	Diamondback CNC, LLC, AVT Revocation
Type:	Ordinance			**Status:**	Public Hearing
File created:	5/10/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	
Title:	Hold second and final public hearing to approve Ordinance No. 05-2019 revoking the economic development ad valorem tax exemption granted to Diamondback CNC, LLC, and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, pursuant to the terms set forth in Ordinance No. 05-2019. (Community Services Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Ordinance No. 05-2019 AVT Revocation - Diamondback Notice of Termination - Incentive Agt - Diamondback 08-2012 (Ad Valorem TAx Exemption) DiamondbackCNCLLC_Executed EDAgreement 2014-019 Economic Development Incentive Fund Program Proof of Legal Advertisement				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: May 10, 2019
Agenda Date: June 12, 2019
Prepared By: Samia Singleton, Economic Development Specialist
Through: Nancy A. Bunt, Community Services Director
Requested Action:
Hold second and final public hearing to approve an Ordinance revoking the economic development ad valorem tax exemption granted to Diamondback CNC, LLC, and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, pursuant to the terms set forth in Ordinance No. 05-2019.

BACKGROUND:

In 2012, Diamondback CNC, LLC requested an ad valorem tax exemption for the expansion of its manufacturing and machinery business in Cocoa, Florida. On June 12, 2012, the City granted Diamondback an economic development ad valorem tax exemption for a period of eight (8) years, subject to the terms and conditions of Resolution 96-24 (which was subsequently replaced by Resolution 2014-18) and Ordinance 08-2012. Both instruments expressly authorize the City Council to revoke, by ordinance, an economic development ad valorem tax exemption if an applicant fails to comply with any term or condition of the exemption. Diamondback failed file annual reports for 2016, 2017, and 2018, and failed to increase the number of full-time employees within the required time

frame. These failures are a material breach of the specified by Ordinance 08-2012.

Diamondback received tax exemptions for $2,564.84 for the 2013 tax year, $5,826.92 for the 2014 tax year, and $5,584.75 for the 2015 tax year. However, since Diamondback has maintained its principal place of business in the City of Cocoa, it is not recommended to re-impose the amounts exempted.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

The total amount exempted (for which re-imposition is being waived) is $13,796.51.

PREVIOUS ACTION:

On June 12, 2012, the City granted Diamondback an economic development ad valorem tax exemption for a period of eight (8) years, subject to the terms and conditions of Resolution 96-24 (which was subsequently replaced by Resolution 2014-18) and Ordinance 08-2012.

On May 8, 2019, approved the first reading of Ordinance No. 05-2019 revoking the economic ad valorem tax exemption previously granted to Diamondback CNC, LLC.

RECOMMENDED MOTION:

Hold second and final public hearing to approve an Ordinance revoking the economic development ad valorem tax exemption granted to Diamondback CNC, LLC, and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, pursuant to the terms set forth in Ordinance No. 05-2019.

ORDINANCE NO. 05-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO DIAMONDBACK CNC, LLC ORIGINALLY AUTHORIZED BY ORDINANCE 08-2012; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City is granted the authority, under • 2(b), Art. VIII of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the Citizens of the City of Cocoa voted to provide economic incentives to new and expanding businesses in the November 8, 1995 general election and again during the 2005 and 2015 general elections; and

WHEREAS, in 2012, Diamondback CNC, LLC ("Diamondback") requested that the City exempt ad valorem taxes for the expansion of its manufacturing and machinery business; and

WHEREAS, the City adopted Ordinance 08-2012 by which it granted Diamondback an economic development ad valorem tax exemption for a period of eight (8) years, subject to the terms and conditions of Resolution 96-24 (which was subsequently replaced by Resolution 2014-18); and

WHEREAS, Resolution 2014-18 and Ordinance 11-2016 expressly authorize the City Council to revoke, by ordinance, any economic ad valorem tax exemption if an applicant fails to comply with any term or condition of the exemption, and additionally authorizes the City Council to reimpose any ad valorem taxes previously exempted; and

WHEREAS, Diamondback has received the following exemptions pursuant to the Ordinance:

Tax Year	Amount
2013	$2,564.84
2014	$5,826.92
2015	$5,584.75

WHEREAS, Diamondback has failed to file annual reports for 2016, 2017, and 2018, and failed to increase the number of full-time employees by 35, thereby not satisfying the conditions of Ordinance 08-2012; and

WHEREAS, the City desires to expressly revoke the economic development ad valorem tax exemption granted to Diamondback, due to its breach of the specified conditions; however,

since Diamondback continues to maintain its primary place of business within the City of Cocoa, the City has determined that it is in its best interest to not re-impose the ad valorem taxes that were exempted for the 2013, 2014, or 2015 tax years; and

WHEREAS, the City Council of the City of Cocoa, Florida, hereby finds this ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Cocoa.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COCOA HEREBY ORDAINS, AS FOLLOWS:

Section 1. **Recitals.** The foregoing recitals are hereby fully incorporated herein by reference as legislative findings of the City Council of the City of Cocoa.

Section 2. **Repeal of Economic Ad Valorem Tax Exemption.** The City Council of the City of Cocoa hereby repeals the economic development ad valorem tax exemption granted to Diamondback CNC, LLC pursuant to Ordinance 08-2012.

Section 3. **Notice Provided to Brevard County Property Appraiser.** Upon adoption of this Ordinance by the City Council, the City Clerk shall send a certified copy of this Ordinance to the Brevard County Property Appraiser.

Section 4. **Repeal of Prior Inconsistent Ordinances and Resolutions.** All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 5. **Not Incorporated into Code.** This Ordinance shall not be incorporated into the Cocoa City Code.

Section 6. **Severability.** If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 7. **Effective Date.** This Ordinance shall become effective immediately upon adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the _____ day of _____, 2019.

[ADOPTION PAGE FOLLOWS]

_____
JAKE WILLIAMS, JR., Mayor

ATTEST:

_____
CARIE SHEALY, MMC
City Clerk

First Reading: _____
Legal Ad Published: _____
Effective Date: _____

Diamondback CNC, LLC
Attn. Bobby Fleckinger
3400 Grissom Parkway
Cocoa, Florida 32926

NOTICE OF TERMINATION OF ECONOMIC INCENTIVE AGREEMENT

Notice is given this ____ day of April, 2019 to Diamondback CNC, LLC ("Diamondback"):

A. On June 12, 2012, the City of Cocoa, Florida ("City") adopted Ordinance No. 08-2012, pursuant to which Diamondback was granted an ad valorem tax exemption for a term of eight (8) years for the expansion of its manufacturing and machinery business in the City.

B. On June 12, 2012, Diamondback entered into an Economic Incentive Agreement with the City, which set forth the terms and conditions of the economic incentive granted to Diamondback. The term of the Agreement runs from the date of execution until one (1) year after Diamondback receives the full benefit of the ad valorem tax exemption.

C. Diamondback was granted the following exemptions:

Tax Year	Amount
2013	$2,564.84
2014	$5,826.92
2015	$5,584.75

D. Pursuant to the Agreement, Diamondback is required to submit annual reports no later than January 31st of each year (Section 4). Further, as a material condition to receiving the economic incentive, Diamondback agreed to increase the number of employees by at least 35 over the three (3) years immediately following the completion of expansion of its facilities (Section 2(c)). Pursuant to Resolution 2014-18, which sets forth the guidelines for the City's Economic Incentive Program, these are required to be full-time employees.

E. Diamondback has breached the terms of the Agreement by (i) failing to file annual reports for 2016, 2017, and 2018, and (ii) failing to increase the number of full-time employees by at least 35. The majority of Diamondback's employees are part-time and/or seasonal.

In accordance with Section 8(d) of the Agreement, the City hereby notifies Diamondback that it must cure the above-described material breaches within fifteen (15) days of receipt of this Notice.

Should Diamondback fail to cure the breaches within the fifteen (15) day time period, then, pursuant to Section 8(e), the Agreement will be terminated and the economic development incentives thereby granted will be revoked.

CITY OF COCOA, FLORIDA

BY: _____
John Titkanich, Jr. AICP, ICMA-CM, City Manager

DATED: 4-23-2019

ORDINANCE NO. 08-2012

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; GRANTING AN ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION TO DIAMONDBACK CNC, LLC; PROVIDING AN EXPIRATION DATE FOR THE EXEMPTION; FINDING THAT THE BUSINESS MEETS THE REQUIREMENTS OF SECTION 196.012(16), FLORIDA STATUTES; PROVIDING FOR PROOF OF ELIGIBILITY FOR EXEMPTION; PROVIDING A REQUIREMENT FOR AN ANNUAL REPORT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City is granted the authority, under Section 2(b), Article VIII, of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, economic development and the creation of jobs are priorities of the City Council of the City of Cocoa; and

WHEREAS, the citizens of Cocoa voted to provide economic incentives to new and expanding businesses in the November 8, 2005 general election; and

WHEREAS, Diamondback CNC, LLC ("Diamondback"), currently located at 1060 Cox Road in Cocoa, Florida, has requested that the City of Cocoa exempt from ad valorem taxation the assessed value of proposed new improvements to its real property made to facilitate the expansion of its manufacturing and machinery business, and all of the net increase in tangible personal property it acquires to facilitate such expansion; and

WHEREAS, the Property Appraiser has provided the City of Cocoa with its report as required by section 196.1995(9), Florida Statutes; and

WHEREAS, it has been determined that Diamondback meets the requirements of section 196.012, Florida Statutes, as an expansion of an existing business located in Cocoa; and

WHEREAS, the City Council of the City of Cocoa, Florida, hereby finds this ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Cocoa.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The foregoing recitals are hereby fully incorporated herein by this reference as legislative findings and the intent and purpose of the City Council of the City of Cocoa.

Section 2. **Economic Development Ad Valorem Tax Exemption.**

(a) An economic development ad valorem tax exemption is hereby granted to Diamondback CNC, LLC ("Diamondback") located in Cocoa, Florida, for new improvements to real property and tangible personal property purchased as equipment.

(b) The total amount of revenue available to the City of Cocoa from ad valorem tax sources for the current fiscal year is $4,453,095.45. The City of Cocoa loses $1,080.15 for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect from previous years.

(c) The estimated taxable value lost to the City of Cocoa for the current fiscal year attributable to the exemption granted to Diamondback is $425,000.00 for improvements to real property and $1,800,000.00 for personal property. The estimate of the revenue which will be lost to the City of Cocoa during the current fiscal year if the exemption applied for were granted had the property for which the exemption is requested otherwise been subject to taxation is $12,418.39.

(d) The tax exemption hereby granted shall be for a term of eight (8) years, commencing with the first year the new improvements and personal property are added to the assessment roll, and lasting seven (7) years thereafter, for eighty percent (80%) of the City ad valorem taxes.

(e) In accordance with the findings of the Cocoa City Council and the Brevard County Property Appraiser, the property hereby exempted from ad valorem tax exemption meets the definition of an expansion to an existing business, as defined by section 196.012(16), Florida Statutes.

(f) The economic development ad valorem tax exemption is subject to the terms and conditions of Resolution 96-24 and/or other terms and conditions required by the City Council.

Section 3. **Evidence of Continued Eligibility.**

(a) Diamondback shall submit to the City of Cocoa an annual report providing evidence of continued compliance with the definition of a "new business" or an "expansion of an existing business" for each of the eight (8) years during which Diamondback is eligible to receive ad valorem tax exemption. The annual report shall be received by the City Council no later than January 31 of each year.

(b) If the annual report is not received, or if the annual report indicates that Diamondback no longer meets the criteria of section 196.012, Florida Statutes, the City Council shall revoke by ordinance this economic development ad valorem tax exemption, reimpose the ad valorem taxes exempted, and Diamondback shall be required to make payment of the taxes exempted in addition

to interest accrued at the maximum rate allowed by law.

Section 4. **Repeal of Prior Inconsistent Ordinances and Resolutions.** All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 5. **Not Incorporated Into Code.** This ordinance shall not be incorporated into the Cocoa City Code.

Section 6. **Severability.** If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 7. **Effective Date.** This Ordinance shall become effective upon adoption by the City Council of the City of Cocoa, Florida and upon the complete execution of an Economic Incentive Agreement between the City of Cocoa and Diamondback.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the12th day of June, 2012.

Michael C. Blake, Mayor

ATTEST:

Joan Clark, City Clerk

First Reading: 5/22/2012
Second Reading: 6/12/2012
Effective Date: 6/12/2012

ECONOMIC INCENTIVE AGREEMENT

THIS ECONOMIC INCENTIVE AGREEMENT ("Agreement") is made and entered into this 12 day of June, 2012, by and between the **CITY OF COCOA, FLORIDA,** a Florida municipal corporation ("City"), and **DIAMONDBACK CNC, LLC,** a Florida limited liability company ("Diamondback").

RECITALS:

WHEREAS, Diamondback, established in 2006, is a manufacturer of firearm components employing 25 individuals, and currently located in the City of Cocoa; and

WHEREAS, Diamondback began its manufacturing business inside its parent company's building and has since expanded into its own 3,000 square foot machine shop; and

WHEREAS, Diamondback intends to expand further into an existing 10,800 square foot building, create 35 new jobs over three (3) years, and invest approximately $2,500,000 in new capital investment in order to increase its manufacturing capabilities by adding machining equipment; and

WHEREAS, the City desires to provide Diamondback certain economic incentives in furtherance of the municipal purpose of expanding economic activity within its jurisdictional borders consistent with section 166.021(9), Florida Statutes; and

WHEREAS, the parties recognize this Agreement is necessary to ensure that the economic incentives provided by the City to Diamondback ultimately serve their intended municipal purpose; and

WHEREAS, the City has established terms and conditions herein whereby Diamondback, by complying with these terms and conditions, can receive the benefits outlined in this Agreement, while the City can fulfill its desire to support local employers, to create jobs and to significantly enhance the prospects of local economic development; and

WHEREAS, the parties agree that the economic incentives provided by the City hereunder are for the benefit of the public health, safety, welfare, and convenience of the citizens of the City of Cocoa; and

WHEREAS, the City Council finds and declares that this Agreement serves a public purpose, which includes promotion of economic development, job growth, and the future expansion of the City's tax base.

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:

2. **Commitments by Diamondback**.

(a) *Expansion of Facilities; Capital Investment.* Diamondback hereby represents and warrants that it intends to expand its manufacturing operations into an existing structure within the jurisdictional boundaries of the City of Cocoa. In furtherance of said expansion, Diamondback agrees to make a fixed capital investment of not less than $2,500,000.00 in new construction and tangible personal property within three (3) years of the effective date of this Agreement.

(b) *Business Operations in Cocoa.* Diamondback agrees to maintain its business operations within the jurisdictional boundaries of the City of Cocoa for the term of this Agreement.

(c) *Employees.* Diamondback agrees that it shall increase the number of persons under its employ by at least 35 over the three (3) years immediately following the completion of the expansion of its existing facilities, and that the average annual salary of its employees shall be at least $37,440.00.

(d) *Expansion of an Existing Business.* Diamondback represents and warrants that, for purposes of receiving the economic incentives provided to Diamondback by this Agreement, Diamondback currently meets the definition of "expansion of an existing business," as that term is defined by section 196.012(16), Florida Statutes. Diamondback agrees to maintain its qualifications as an "expansion of an existing business" during the entire term of this Agreement.

3. **Ad Valorem Tax Exemption.** The parties acknowledge that in accordance with Ordinance No. 23-2005, the electorate of the City of Cocoa has granted the City Council the authority to grant property tax exemptions for new businesses and expansions of existing businesses. The parties further acknowledge that Diamondback's anticipated investment to real property and tangible personal property pursuant to the terms of this Agreement, and the City Council's determination that Diamondback's continued operations in the City of Cocoa are critical for the future economic development of the City, render Diamondback eligible for an ad valorem tax exemption. Diamondback has filed an application for ad valorem tax exemption with the City, and the City has processed the application in good faith and in accordance with the requirements established by the City and under Florida law. Conditioned upon Diamondback's continuing obligation to comply with the terms and conditions set forth in this Agreement, the City Council approved Ordinance No. 08-2012 on June 12, 2012, granting Diamondback an ad valorem tax exemption for a term of eight (8) years, commencing with the first year the new improvements and personal property are added to the assessment roll, and lasting seven (7) years thereafter, for eighty percent (80%) of the City's ad valorem taxes.

4. **Annual Reports.** Diamondback shall submit to the City an annual report on a form proscribed by the City, along with any necessary supporting documentation, providing evidence of continued compliance with the terms of this Agreement, and shall specifically provide evidence of continued compliance with the definition of "expansion of an existing business" as set forth in section 196.012(16), Florida Statutes, for each of the eight (8) years

Diamondback receives the ad valorem tax exemption. The annual report shall be provided to the City no later than January 31 of each year. Diamondback shall also submit any other information or reports as the City Manager or City Council may deem reasonably necessary for purposes of determining whether Diamondback is complying with the terms and conditions of this Agreement.

5. **Compliance with Laws.** Diamondback shall be responsible for complying with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority regarding the location and continued operation of its business within the City of Cocoa.

6. **Work is a Private Undertaking.** With regard to Diamondback's business operation and compliance with applicable laws, rules, and regulations, it is specifically understood and agreed to by and between the parties hereto that the contractual relationship between the City and Diamondback is such that the Diamondback is an independent contractor and not an agent of the City, and that this is not a business partnership or joint venture agreement. Diamondback and its contractors, partners, agents, and employees are independent contractors and not employees of the City, and Diamondback shall be in complete control over its business operations. Nothing in this Agreement shall be interpreted to establish any relationship other than that of an independent contractor, between the City and Diamondback, its contractors, partners, employees, or agents, under this Agreement.

7. **Compliance Monitoring.** Diamondback agrees that City control and monitoring of the economic incentives granted hereunder is necessary to insure that Diamondback's implementation of its obligations to the City set forth in this Agreement are in furtherance of the municipal purposes declared by the City herein.

8. **Term; Termination; Remedies.**

(a) *Term.* This Agreement shall become effective upon full execution by both parties hereto and shall terminate one (1) year after Diamondback has received the full benefit of the ad valorem tax exemption granted pursuant to Section 3 herein, unless the Agreement is terminated pursuant to this Section.

(b) *Termination by City.* The City shall have the right to terminate this Agreement upon any material breach of any term or condition of this Agreement by Diamondback; if Diamondback is declared bankrupt or insolvent; if Diamondback adopts a plan or resolution of liquidation of Diamondback or substantially sells all of its assets; if Diamondback engages in fraud or misleading compliance reporting against the City; or if a receiver or trustee is appointed on behalf of Diamondback for purposes of taking control of substantially all of Diamondback's assets within the City of Cocoa, or the said assets are judicially seized for any reason, and possession of said assets are not released to Diamondback within ninety (90) days.

(c) *Termination by Diamondback.* Diamondback may terminate this Agreement in the event of a material breach of any provision of this Agreement by the City,

which shall include, but not be limited to, failing to fulfill any of its legal obligations under Section 3, herein.

(d) *Notice; Opportunity to Cure.* Prior to exercising its right to terminate this Agreement, the terminating party shall provide written notice to the non-terminating party setting forth the reason for termination and providing the non-terminating party 15 days from receipt of the notice to cure the alleged breach. If the alleged breach is not cured within said time period, this Agreement shall be deemed terminated, except with respect to any provision that affords a remedy in the event of a breach and any provision that expressly survives termination.

(e) *Remedies.* In the event of Diamondback's breach of this Agreement, the City shall have the right to revoke the economic development incentives and to re-impose, in full, the ad valorem taxes waived pursuant to Section 3 herein, plus interest accrued at the maximum rate allowed by law. The City shall notify Diamondback in writing regarding the revocation of the economic development incentives and such notice shall set forth the total sum due and owing to the City. Diamondback shall reimburse the City within 30 days from Diamondback's receipt of the City's notice unless Diamondback cures the breach within 15 days of receiving the notice. Should Diamondback fail to reimburse the City within 30 days, the City shall be entitled to recover the taxes due and owing to the City. Further, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in collecting said taxes through all appellate proceedings. Moreover, the City shall have the right to recover the taxes through any and all available legal means, including, but not limited to, reassessing taxes and assessments on the tax roles of Brevard County, Florida, and bringing an action in a state or federal court.

9. **Severability.** Should any section or any part of any section 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 section or any part of any section in this Agreement.

10. **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 Orlando, Florida for all federal court actions or disputes which arise out of or are based upon this Agreement.

11. **Integration; Modification.** The drafting, execution, and delivery of this Agreement by the parties have not been induced by any 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.

12. **Attorney's Fees.** Unless otherwise provided herein, each party agrees to bear their own attorneys' fees and costs in furtherance of this Agreement.

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

14. **Waiver.** No failure to insist on the prompt performance by Diamondback 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 Diamondback'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.

15. **Notices.** All notices required or permitted under this Agreement and any written consents or approvals required hereunder shall be in writing (including telecopy communication) and shall be (as elected by the person giving such notice) hand-delivered by messenger or overnight courier service, telecopied or mailed by registered or certified mail (postage pre-paid), return receipt requested, and addressed to each party at their respective addresses as set forth below or to such other addresses any party may designate by notice complying with the terms of this Section:

To CITY:

Dr. Brenda Fettrow,
Cocoa City Manager
65 Stone Street
Cocoa, FL 32922

w/copy to:

Anthony A. Garganese, City Attorney
Brown, Garganese, Weiss & D'Agresta, P.A.
P.O. Box 2873
Orlando, FL 32802-2873

To DIAMONDBACK:

Faith Denman
Diamondback CNC, LLC
1060 Cox Road
Cocoa, FL 32926

Such notice, request or other communication shall be considered given and deemed delivered: (a) on the date delivered if by personal delivery or courier service; (b) on the date of transmission with confirmed answer back if by telecopier if transmitted prior to 5:00 p.m. on a business day, and on the next business day if transmitted after 5:00 p.m. or on a non-business day, provided that a copy of the notice is provided within two business days thereafter by one of the other methods permitted by this Section; or (c) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed.

16. **Indemnification and Hold Harmless**. Diamondback shall indemnify, hold harmless, and defend the City, from and against any and all claims, damages, losses, and expenses including, but not limited to, attorneys' fees, arising out of or resulting from the performance or provision of the terms and conditions of this Agreement, including damage to persons or property, provided that same is caused in whole or part by the error, omission,

negligent act, failure to act, malfeasance, misfeasance, conduct, or misconduct of Diamondback, its agents, servants, officers, officials, employees, or subcontractors.

The obligations arising under this Section 16 shall survive the expiration or termination of this Agreement, as to claims or causes of action, and liabilities, expenses, losses, costs, reasonable attorneys fees, damages, fines and penalties of every kind and character or incurred or suffered by the City as a result thereof, based upon events arising prior to the date of termination of this Agreement.

17. **Assignment.** This Agreement shall not be assigned by Diamondback without the prior written consent of the City.

18. **No City Obligation for Future Funds.** No provision in this Agreement shall be construed as requiring the City to provide additional economic incentives of any kind, other than as specifically provided herein.

19. **Conflict of Interest.** Diamondback represents and warrants, and this Agreement is being made by the City in reliance thereon, that Diamondback and its officers, employees, and agents are neither officers nor employees of the City. Further, that no consideration of any kind is being paid, transferred, or conveyed directly to any City officer or employee, or indirectly to any City officer or employee through some other third party including a relative or legal entity, for the City's commitment to enter into this Agreement.

20. **Representations of Diamondback.** Diamondback represents to the City that (i) Diamondback is an entity organized in the State of Florida and duly authorized to conduct business in Florida; (ii) Diamondback has the authority to enter into this Agreement and to perform the requirements of this Agreement; (iii) to Diamondback's best knowledge, Diamondback's performance under this Agreement shall not violate any applicable judgment, order, law, or regulation; (iv) to Diamondback's best knowledge, Diamondback's performance under this Agreement shall not result in the creation of any claim against the City for money or performance, any lien, charge, encumbrance or security interest upon any asset of the City; (v) Diamondback shall have sufficient capital to perform its obligations under this Agreement; and (vi) Diamondback does not require any third party consent to execute, deliver, and perform its obligations under this Agreement unless otherwise stated in this Agreement.

21. **Diamondback's Continuing Disclosure Requirement.** Diamondback must promptly notify the City of any developments that materially and adversely impact this Agreement and Diamondback's obligations stated herein including, but not limited to, compliance with all applicable laws, rules, and regulations pertaining to clean air permits, initiation of any law suits or bankruptcy proceedings, sale or conveyance of real property, labor disputes, and changes in business operations.

22. **No Delegation of Police Power.** Diamondback shall not pledge the credit of the City nor make the City a guarantor of payment or surety for any contract, debt, or obligation, judgment, lien, or any form of indebtedness. The parties agree that this Agreement does not nor

shall it be construed as a delegation of any of the City's authority or police powers to Diamondback.

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

The City of Cocoa,
a Florida municipal corporation.

ATTEST:

Joan Clark, City Clerk

Michael Blake, Mayor

Date: 6/12/2012

Diamondback CNC, LLC
a Florida limited liability company.

Print Name: Bobby Fleckinger
Title: President

Date: 6-28-12

STATE OF _____)
COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared _____, _____ of **Diamondback CNC, LLC** a Florida limited liability company, who is [___] personally known to me or [___] has produced _____ as identification.

_____
Notary Public - State of _____

_____
Printed Name
My Commission Expires: _____

RESOLUTION NO. 2014- 019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; ESTABLISHING A GENERAL ECONOMIC INCENTIVE GRANT PROGRAM FOR NEW AND EXPANDING BUSINESSES LOCATED WITHIN THE CITY OF COCOA; MAKING LEGISLATIVE FINDINGS OF PUBLIC PURPOSE; PROVIDING FOR ELIGIBILITY AND GRANT REQUIREMENTS; PROVIDING APPLICATION REQUIREMENTS AND PROCESSING PROCEDURES; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, section 166.021(8), Florida Statutes provides that the Legislature has determined that there is a need to enhance and expand economic activity within municipalities by attracting and retaining business enterprises; and

WHEREAS, section 166.021(8)(b) also expressly provides that a municipality may expend public funds to attract and retain business enterprises and the use of such funds toward the achievement of such economic development goals constitutes a public purpose; and

WHEREAS, the City is also vested with broad municipal home rule powers granted by s. 2(b), Art. VIII of the Florida Constitution which would include the power to provide economic incentives to businesses to locate and expand with the City of Cocoa

WHEREAS, the City Council of the City of Cocoa, Florida has established a strategic priority to pursue economic development and diversification of the City's tax base to facilitate job creation; and

WHEREAS, in furtherance of this strategic priority, the City Council has determined that offering economic development incentives encourages new businesses to locate and existing businesses to expand within the City of Cocoa creates new employment opportunities for the residents of the City; and

WHEREAS, the City desires to stimulate economic growth by recruiting and attracting new businesses to locate within the City of Cocoa and by encouraging existing businesses with the City to expand; and

WHEREAS, the creation of new employment opportunities and the increased tax revenues generated from new and expanded businesses are beneficial to the local economy; and

WHEREAS, the City Council finds and declares that it is in the public's best interest to award economic development incentives to new and expanding small businesses within the City of Cocoa as part of the overall strategic economic development policy of the City; and

WHEREAS, the intent and purpose of this Resolution is to establish a general Economic Incentive Program for the City of Cocoa, which will authorize the City to provide economic financial incentives to eligible new and expanding businesses within the City of Cocoa; and

WHEREAS, the objective of the General Economic Incentive Program is to encourage certain new businesses to locate within the City of Cocoa and to encourage certain existing businesses within the City of Cocoa to expand their business operations for purposes of enhancing the economy of the City and to create new job and business opportunities for the residents and businesses of Cocoa; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AS FOLLOWS:

Section 1. Recitals; Title. The foregoing recitals are affirmed and incorporated as part of this Resolution as legislative findings of the City Council of Cocoa. Upon adoption, this Resolution may be referred to as the "City of Cocoa Economic incentive Program (hereinafter sometimes referred to as the "EIP")."

Section 2. Adoption of Guidelines and Procedures. The City Council hereby adopts the following guidelines and procedures for the EIP as follows:

I. Eligibility. A new business and an existing business with expansion plans shall be eligible for an economic incentive under this Resolution; provided, however, the business satisfies the following criteria:

a. To qualify as a "New Business," the business must not be currently operating within the City of Cocoa (including any subsidiary or parent company thereof) and must meet all of the following factors:

1. The business establishes at least 10 or more new jobs to employ 10 or more full-time equivalent employees in the City within the first year of commencing operations within the City, provided the new jobs have an average annual salary of not less than the lower living wage of Brevard County.

2. The business qualifies as a "target industry business" as defined by s. 288.106(2)(q), Florida Statutes. The following businesses are expressly not eligible for a grant under this Resolution: property management or leasing companies; home occupation; sexually oriented business, vehicle sales, repair, services and storage; vehicle or other fuel sales; check cashing stores; convenience stores; liquor or package store; tattoo establishment; pawn shop; flea market; car wash; title loan business; bar or club; tobacco related business; bail bonds; or any use prohibited by the City Code.

3. The business will invest at least $250,000 in land, building, or equipment purchases within the first year of commencing operations within the City.

Notwithstanding the aforesaid, the City reserves the right, on a case-by-case basis, to consider the eligibility of other businesses that the City deems a high value economic development project that will create a significant and positive economic impact on the City.

b. For an existing business to qualify, the existing business must have plans to expand business operations within the City of Cocoa by or through the acquisition of real property or capital infrastructure improvements and the business must meet all of the following factors:

1. The expansion directly results in the creation of at least 10 or more new jobs to employ 10 or more full-time equivalent employees in the City within the first year of completing the expansion of business operations, provided the new jobs have an average annual salary of not less than the lower living wage of Brevard County.

2. The business qualifies as a "target industry business" as defined by s. 288.106(2)(q), Florida Statutes.

3. The expansion must commence within 12 months of the date that the grant application is submitted to the City and be completed no later than 12 months from the date that the expansion commences unless less time is required by Grant Agreement.

4. The expansion includes a minimum investment of at least $250,000 in land, building, or equipment purchases.

For purposes of this Section I, the term "jobs" shall have the same meaning as the same definition set forth in s. 288.106(2)(i), Florida Statutes.

II. Eligible Grant Amounts. If a business is eligible for consideration of a grant under this Resolution, the maximum total grant potentially available shall be $100,000, provided that a maximum $50,000 is available as a general grant from the City's general fund economic development budget allocation and a maximum $50,000 is available as a utility improvement grant from the City's utility fund economic development budget allocation. Once a business receives the maximum grant amount in total or from either fund the business shall no longer be eligible for grant funding above the total or fund maximum amount stated in this Resolution, whichever may be the case.

III. Minimum Funding Requirements. Grant awards under this Resolution shall be on a reimbursement basis and shall be subject to the following minimum requirements:

a. All grant awards shall be subject to a written agreement between the City and the grant recipient ("Grant Agreement"). The Grant Agreement shall be in a form approved by the

City Attorney and City Manager. Grant Agreements shall not be binding upon the City unless the written agreement is approved by the City Council and executed by the City Manager or Mayor in a manner consistent with the requirements of this Resolution. Oral representations made by any City official regarding the EIP shall be nonbinding upon the City.

b. General fund economic development grant funds provided under this Resolution shall be on a reimbursement basis and shall be used only for the following limited expenditures: (i) building or capital improvements to the business location with the City of Cocoa, provided such improvements are subject to ad valorem or tangible property taxes; (ii) the acquisition of real property on which a new building or expansion of existing building will be constructed; (iii) relocation expenses of existing employees that will fill the new jobs that will be relocated to the City of Cocoa; and (iv) City development permit fees including impact fees, building permit fees, zoning permit fees, and business tax receipts.

c. Utility fund economic development grant funds provided under this Resolution shall be on a reimbursement basis and shall be used only for water, sewer, stormwater, and reclaimed water utility related on-site or off-site capital improvements.

d. Building and capital improvements covered by the Grant Agreement must comply with applicable laws and shall only be reimbursed if the City certifies that the improvements have been completed by the recipient.

e. Grants for development fee reimbursement shall be paid as a credit to offset the development payment fee balance owed the City. If the credit is insufficient to cover the entire fee owned the City, the credit will be applied at such time the fee is deemed owed pursuant to City policy and the recipient has fully paid any remaining balance owned the City on the subject fee.

f. The grant provided under this Resolution shall be based solely on out-of-pocket costs incurred by the recipient and shall not include any in-kind contributions or internal work performed by the recipient and recipient's employees.

g. Before any reimbursement is made by the City, the City's Office of Economic Development must confirm and verify that the recipient has fully completed and paid for the expenditures authorized to be reimbursed by the Grant Agreement. Verification shall require that, at a minimum, the recipient has provided to the City copies of all applicable receipts, invoices, payment documentation, and completion certificates.

IV. Application Requirements.

a. Completed grant applications will be processed on a first come, first served basis. Completed grant applications shall be submitted to the Office of Economic Development for the City of Cocoa, 65 Stone Street, Cocoa, FL 32922 on a form approved by the City Manager and shall be accompanied with the following minimum information, if applicable:

1. The legal name of the business and a brief description of the purpose of the business.
2. Copy of certificate of good standing issued by the State of Florida evidencing the business is authorized to do business in the State.
3. The federal employer identification number and, if applicable, state sales tax registration number.
4. The location of the business or proposed permanent location of the applicant's business at which the project is to be located.
5. Whether the business is or will be located with an enterprise zone or brownfield area within the City of Cocoa.
6. The primary business contact for the duly authorized representative of the business.
7. A description of the type of business activity or product covered by the project, including a minimum of a five-digit NAICS code for all activities included in the project.
8. The proposed number of new jobs (full-time and part-time) that are committed to be created and related job descriptions, wages to be paid, and a timeframe for hiring.
9. The average annual wage committed to be paid.
10. The anticipated date operations will commence.
11. If an expanding business, number of current jobs being retained.
12. The amount and brief description of capital investment committed to be made.
13. A brief description of utility impacts, connections, or extensions within the City.
14. A brief statement explaining the role that the anticipated incentives will play in the decision of the applicant to locate or expand in the City, and the desired use of the incentives provided by the City.

b. Incomplete and ineligible applications will not be processed by the City. If an application is deemed incomplete or the City requires additional information in order to process the application, the applicant will be notified and afforded an opportunity to correct the

deficiency and provide additional information. Once the City staff determines and application is complete and eligible for potential grant funding, the following will occur:

1. City staff shall review the application according to the criteria and requirements established under this Resolution and provide a written recommendation to the City Council in the form of an Agenda Item. City staff is authorized to establish scoring criteria and sheet for purposes of formulating their recommendation and said criteria shall weigh applications more favorably based on the number of jobs created, the total amount of capital investment to be undertaken by the recipient, the average annual wage of the new jobs, and whether the business is located or will be located within the City's enterprise zone or brownfields area. Preference may be given to businesses that are or will be located within a City enterprise zone or brownfield designated area.

2. City staff, with the assistance of the City Attorney, will prepare a draft Grant Agreement for the City Council's consideration if the staff recommendation is to approve the grant application.

3. City Council shall not be bound by City staff's recommendation. City Council, in its sole discretion, consider the recommendation of City staff and any proposed Grant Agreement and either approve, approve with modifications, or deny the application by majority vote, and determine whether any funds will be made available to the applicant. No precedent shall be implied or inferred by any decision of the City Council pursuant to this Resolution.

V. Minimum Grant Agreement Performance Conditions. All Grant Agreements approved under this Resolution shall require the grant recipient to maintain the new business or expansion of an existing business in accordance with the eligibility requirements set forth in Section I of this Resolution for a specific duration of time commensurate with the amount and timing of the grant provided by the City, provided the duration shall not be less than two (2) years. Further, the Grant Agreement shall require the recipient to submit an annual report to the City evidencing compliance with the terms and conditions of the Agreement. The report shall be received by Council no later than January 31 of each year for the fiscal year that begins on October 1 following the January 31 report submission date. In addition, the Grant Agreement shall provide that the City shall have the right to rescind the Grant Agreement and demand an immediate refund of any grant funds provided by the City if the recipient fails to comply with any material terms of condition set forth in the Grant Agreement.

VI. Supplemental Incentives; Appropriations. Any grant award approved under this Resolution shall be deemed supplemental to any other economic development incentive program offered by the City. Nothing herein shall be construed or interpreted as requiring the City Council to budget and appropriate any funds to the EIP. Any and all such appropriations shall be made at the sole discretion of the City Council.

Section 3. State Reporting Requirements. Pursuant to Section 166.021(8)(e), Florida Statutes, City staff shall report annually to the State of Florida, Office of Economic and

Demographic Research detailing any economic development incentives in excess of $25,000 given to any business during the City's previous fiscal year. The City's report shall be on a form prescribed by the Office of Economic and Demographic Research

Section 4. Repeal of prior inconsistent resolutions. All prior inconsistent resolutions or any parts thereof in conflict herewith are hereby repealed to the extent of the conflict.

Section 5. Severability. Should any section or provision of this resolution or any portion hereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereto as a whole or part thereof to be declared invalid.

Section 6. Effective date. This Resolution shall become effective immediately upon its adoption by the City of Cocoa, Florida.

Adopted at a Regular Meeting of the City of Cocoa, Florida, assembled this 11th day of February, 2014.

Henry U. Parrish, III, Mayor

ATTEST:

Joan Clark, City Clerk, CMC

FLORIDA TODAY
FLORIDATODAY.com
A GANNETT COMPANY

Classified Ad Receipt
(For Info Only - NOT A BILL)

Customer: CITY OF COCOA (TE)

Address: 65 STONE ST
COCOA FL 32922
USA

Ad No.: 0003593613
Pymt Method Invoice
Net Amt: $379.34

Run Times: 1

No. of Affidavits: 1

Run Dates: 06/02/19

Text of Ad:

CITY OF COCOA
NOTICE OF PUBLIC HEARING

June 12, 2019

NOTICE is hereby given that the City of Cocoa, Florida, will hold a Public Hearing at 6:00 p.m. on Wednesday, June 12, 2019, in City Council Chambers, located at 65 Stone Street, in Cocoa, Florida.

The City Council will consider adopting the following Ordinances on Second Reading, titled as follows:

ORDINANCE 03-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO CROSS BRANDS MANUFACTURING, L.L.C. ORIGINALLY AUTHORIZED BY ORDINANCE 11-2016; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

ORDINANCE NO. 05-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO DIAMONDBACK CNC, LLC ORIGINALLY AUTHORIZED BY ORDINANCE 08-2012; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

ORDINANCE NO. 06-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO GENO, LLC ORIGINALLY AUTHORIZED BY ORDINANCE 12-2015; REIMPOSING THE AD VALOREM TAXES EXEMPTED FOR 2016 PURSUANT TO ORDINANCE 12-2015 TO THE EXTENT ALLOWED BY LAW; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

ORDINANCE NO. 07-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO PARAGON PLASTICS, INC. ORIGINALLY AUTHORIZED BY ORDINANCE 17-2011; REIMPOSING THE AD VALOREM TAXES EXEMPTED FOR 2016 PURSUANT TO ORDINANCE 17-2011 TO THE EXTENT ALLOWED BY LAW; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

This is a public meeting. All interested parties may attend. The facility wherein the public meeting will be held is accessible to the physically handicapped.

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

Members of the public are encouraged to comment on the proposed ordinances at the meeting. Comments may also be

at the meeting. Comments may also be submitted in writing to the Office of the City Clerk, 65 Stone Street, Cocoa, FL 32922, or by email (cshealy@cocoafl.org), or by telephone by calling (321) 433-8484.

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 (321) 433-8484

Further information may be obtained by calling the City Clerk at the above listed number.

Dated this the 13th
day of May, 2019.

Carie Shealy, MMC, City Clerk

Legislation Details (With Text)

File #:	19-240	**Version:**	1	**Name:**	GeNO, LLC, n/k/a Vero Biotech, LLC AVT Revocation
Type:	Ordinance			**Status:**	Public Hearing
File created:	5/10/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	
Title:	Hold second and final public hearing to approve Ordinance No. 06-2019 revoking the economic development ad valorem tax exemption granted to GeNO, LLC, n/k/a Vero Biotech, LLC and re-imposing the ad valorem taxes that were exempted for 2016, and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, who shall reissue a tax bill to GeNO for the taxable year of 2016, pursuant to the terms set forth in Ordinance No. 06-2019. (Community Services Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Ordinance No. 06-2019 Revoke AVT Exemption GeNO Notice of Termination - Grant Agt - GeNO Notice of Termination - Incentive Agt - GeNO Economic Incentive Agreement (AVT) Project Taylor Economic Incentive Agreement (EDI Fund) Project Taylor Ord. 12-2015 (Project Taylor Ad Valorem Tax Exemption) 2nd reading AVT Revocation Ordinances 2019 Proof of Legal Advertisement				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: May 10, 2019
Agenda Date: June 12, 2019
Prepared By: Samia Singleton, Economic Development Specialist
Through: Nancy A. Bunt, Community Services Director
Requested Action:
Hold second and final public hearing to approve an Ordinance revoking the economic development ad valorem tax exemption granted to GeNO, LLC, n/k/a Vero Biotech, LLC and re-imposing the ad valorem taxes that were exempted for 2016, and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, who shall reissue a tax bill to GeNO for the taxable year of 2016, pursuant to the terms set forth in Ordinance No. 06-2019.

BACKGROUND:

In 2015, GeNO, LLC requested an ad valorem tax exemption for the expansion of its business in retail, development, and manufacturing of therapeutic medical products in Cocoa, Florida. On August 11, 2015, the City granted GeNO (under the alias “Project Taylor”) an economic development ad

valorem tax exemption for a period of ten (10) years, subject to the terms and conditions of Resolution 2014-18 and Ordinance 12-2015. Both instruments expressly authorize the City Council to revoke, by ordinance, an economic development ad valorem tax exemption if an applicant fails to comply with any term or condition of the exemption, and additionally authorizes the City Council to re-impose any ad valorem taxes previously exempted. GeNO failed file annual reports for the 2017 and 2018 tax years, and moved its business out of the City of Cocoa in or about February 2018. The failure to file an annual report and the move from the City are material breaches of the conditions specified by Ordinance 12-2015.

GeNO received an ad valorem tax exemption in the amount of $2,031.78 for the 2016 tax year.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

Monies collected by the Brevard County Tax Collector as re-imposed taxes shall be deposited in the City's General Fund

PREVIOUS ACTION:

On August 11, 2015, the City granted GeNO (under the alias "Project Taylor") an economic development ad valorem tax exemption for a period of ten (10) years, subject to the terms and conditions of Resolution 2014-18 and Ordinance 12-2015, and approved an Economic Development Incentive Fund.

On May 8, 2019, approved the first reading of Ordinance No. 06-2019 revoking the economic ad valorem tax exemption previously granted to GeNO, LLC, n/k/a Vero Biotech, LLC.

RECOMMENDED MOTION:

Hold second and final public hearing to approve an Ordinance revoking the economic development ad valorem tax exemption granted to GeNO, LLC, n/k/a Vero Biotech, LLC and re-imposing the ad valorem taxes that were exempted for 2016, and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, who shall reissue a tax bill to GeNO for the taxable year of 2016, pursuant to the terms set forth in Ordinance No. 06-2019.

ORDINANCE NO. 06-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO GENO, LLC ORIGINALLY AUTHORIZED BY ORDINANCE 12-2015; REIMPOSING THE AD VALOREM TAXES EXEMPTED FOR 2016 PURSUANT TO ORDINANCE 12-2015 TO THE EXTENT ALLOWED BY LAW; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City is granted the authority, under • 2(b), Art. VIII of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the Citizens of the City of Cocoa voted to provide economic incentives to new and expanding businesses in the November 8, 1995 general election and again during the 2005 and 2015 general elections; and

WHEREAS, in 2015, GeNO, LLC, n/k/a Vero Biotech, LLC ("GeNO") requested that the City exempt ad valorem taxes for the expansion of its business in retail, development, and manufacturing of therapeutic medical products; and

WHEREAS, the City adopted Ordinance 12-2015 by which it granted GeNO (under the alias "Project Taylor") an economic development ad valorem tax exemption for a period of ten (10) years, subject to the terms and conditions of Resolution 2014-18; and

WHEREAS, Resolution 2014-18 and Ordinance 12-2015 expressly authorize the City Council to revoke, by ordinance, any economic ad valorem tax exemption if an applicant fails to comply with any term or condition of the exemption, and additionally authorize the City Council to reimpose any ad valorem taxes previously exempted; and

WHEREAS, GeNO received a $2,031.78 economic development ad valorem tax exemption for the tax year 2016, but has failed to file annual reports for 2017 and 2018, and moved its business out of the City in or about February 2018, thereby not satisfying the conditions specified by Ordinance 12-2015; and

WHEREAS, the City desires to expressly revoke the economic development ad valorem tax exemption for 2016, and additionally desires to reimpose the ad valorem taxes that were exempted for the 2016 tax year to the extent allowed by law, due to GeNO's breach of the specified conditions; and

WHEREAS, the City Council of the City of Cocoa, Florida, hereby finds this ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Cocoa.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COCOA HEREBY ORDAINS, AS FOLLOWS:

Section 1. **Recitals.** The foregoing recitals are hereby fully incorporated herein by reference as legislative findings of the City Council of the City of Cocoa.

Section 2. **Repeal of Economic Ad Valorem Tax Exemption.** The City Council of the City of Cocoa hereby repeals the economic development ad valorem tax exemption granted to GeNO, LLC pursuant to Ordinance 12-2015 for the year 2016.

Section 3. **Reimposing the Ad Valorem Taxes Exempted.** The City Council of the City of Cocoa hereby reimposes the economic development ad valorem tax previously exempted in the amount of $2,031.78 for 2016 to the extent allowed by law, received by GeNO, LLC pursuant to Ordinance 12-2015.

Section 4. **Notice Provided to Brevard County Property Appraiser.** Upon adoption of this Ordinance by the City Council, the City Clerk shall send a certified copy of this Ordinance to the Brevard County Property Appraiser, who shall reissue a tax bill to GeNO for the taxable year of 2016, pursuant to the terms set forth herein, which shall be due and owing to the City.

Section 5. **Repeal of Prior Inconsistent Ordinances and Resolutions.** All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 6. **Not Incorporated into Code.** This Ordinance shall not be incorporated into the Cocoa City Code.

Section 7. **Severability.** If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 8. **Effective Date.** This Ordinance shall become effective immediately upon adoption by the City Council of the City of Cocoa, Florida.

[ADOPTION PAGE FOLLOWS]

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the _____ day of _____, 2019.

_____
JAKE WILLIAMS, JR., Mayor

ATTEST:

_____
CARIE SHEALY, MMC
City Clerk

First Reading: _____
Legal Ad Published: _____
Effective Date: _____

Vero Biotech, LLC,
f/k/a GeNO, LLC
Attn. Theo Melas-Kyriazi
2941 Oxbow Circle
Cocoa, Florida 32926

NOTICE OF TERMINATION
ECONOMIC DEVELOPMENT INCENTIVE GRANT AGREEMENT

Notice is given this ____ day of April, 2019 to Vero Biotech, LLC, f/k/a GeNO, LLC ("GeNO"):

A. On August 11, 2015, the City of Cocoa, Florida ("City") approved an Economic Development Incentive Fund for GeNO (under the alias "Project Taylor") in the amount of $500 per new job created, not to exceed $50,000.

B. On September 22, 2015, GeNO (under the alias "Project Taylor") entered into an Economic Development Incentive Grant Agreement with the City, which set forth the terms and conditions of GeNO's receipt of the grant funds. The term of the Agreement is ten (10) years from the date of execution.

C. GeNO has not received any reimbursements under the Agreement.

D. Pursuant to the Agreement, GeNO is required to submit annual reports no later than January 31st of each year (Section 4). Further, as a material condition to receiving the economic incentive, GeNO agreed to maintain its existing business operations within the jurisdictional boundaries of the City of Cocoa for the term of the Agreement (Section 2(b)).

E. GeNO has breached the terms of the Agreement by (i) failing to file annual reports for 2017 and 2018 and (i) moving its business out of the City in or around February 2018.

In accordance with Section 9(d) of the Agreement, the City hereby notifies GeNO that it must cure the above-described material breaches within fifteen (15) days of receipt of this Notice.

Should GeNO fail to cure the breaches within the fifteen (15) day time period, then, pursuant to Section 9(e), the Agreement will be terminated and the economic development incentives thereby granted will be revoked.

CITY OF COCOA, FLORIDA

BY: _____
John Titkanich Jr. AICP, ICMA-CM, City Manager

DATED: 4-23-2019

Vero Biotech, LLC,
f/k/a GeNO, LLC
Attn. Theo Melas-Kyriazi
2941 Oxbow Circle
Cocoa, Florida 32926

NOTICE OF TERMINATION OF ECONOMIC INCENTIVE AGREEMENT

Notice is given this ____ day of April, 2019 to Vero Biotech, LLC, f/k/a GeNO, LLC ("GeNO"):

A. On August 25, 2015, the City of Cocoa, Florida ("City") adopted Ordinance No. 12-2015, pursuant to which GeNO (under the alias "Project Taylor") was granted an ad valorem tax exemption for a term of ten (10) years for the expansion of its business in retail, development, and manufacturing of therapeutic medical products in the City.

B. On September 22, 2015, GeNO entered into an Economic Incentive Agreement with the City, which set forth the terms and conditions of the economic incentive granted to GeNO. The term of the Agreement runs from the date of execution until one (1) year after GeNO receives the full benefit of the ad valorem tax exemption.

C. GeNO was granted an exemption in the amount of $2,031.78 for the 2016 tax year.

D. Pursuant to the Agreement, GeNO is required to submit annual reports no later than January 31st of each year (Section 4). Further, as a material condition to receiving the economic incentive, GeNO agreed to maintain its existing business operations within the jurisdictional boundaries of the City of Cocoa for the term of the Agreement (Section 2(b)).

E. GeNO has breached the terms of the Agreement by (i) failing to file annual reports for 2017 and 2018 and (ii) moving its business out of the City in or around February 2018.

In accordance with Section 8(d) of the Agreement, the City hereby notifies GeNO that it must cure the above-described material breaches within fifteen (15) days of receipt of this Notice.

Should GeNO fail to cure the breaches within the fifteen (15) day time period, then, pursuant to Section 8(e), the Agreement will be terminated and the economic development incentives thereby granted will be revoked. Further, GeNO shall reimburse the City the $2,031.78 in exempted ad valorem taxes within thirty (30) days of receipt of this Notice.

CITY OF COCOA, FLORIDA

BY: _____
John Titkanich, Jr. AICP, ICMA-CM, City Manager

DATED: 4-23-2019

ECONOMIC INCENTIVE AGREEMENT

THIS ECONOMIC INCENTIVE AGREEMENT ("Agreement") is made and entered into this 22nd day of September, 2015, by and between the **CITY OF COCOA, FLORIDA,** a Florida municipal corporation ("City"), and **PROJECT TAYLOR,** a Delaware limited liability company ("Project Taylor").

RECITALS:

WHEREAS, Project Taylor, established in 2006, is a manufacturer of therapeutic medical products, employing 57 individuals (49 employees based in Cocoa), and currently located in the City of Cocoa; and

WHEREAS, Project Taylor currently leases space in three facilities including a 6,000 square foot facility in the City of Cocoa and intends to expand further into a 22,000 square foot building, create 126 new jobs prior to December 31, 2018, and invest approximately $3,150,000 in new capital investment in order to increase its manufacturing capabilities by adding a new facility and new machining equipment; and

WHEREAS, the City desires to provide Project Taylor with certain economic incentives in furtherance of the municipal purpose of expanding economic activity within its jurisdictional borders consistent with section 166.021(8), Florida Statutes; and

WHEREAS, the parties recognize this Agreement is necessary to ensure that the economic incentives provided by the City to Project Taylor ultimately serve their intended municipal purpose; and

WHEREAS, the City has established terms and conditions herein whereby Project Taylor, by complying with these terms and conditions, can receive the benefits outlined in this Agreement, while the City can fulfill its desire to support local employers, to create jobs and to significantly enhance the prospects of local economic development; and

WHEREAS, the parties agree that the economic incentives provided by the City hereunder are for the benefit of the public health, safety, welfare, and convenience of the citizens of the City of Cocoa; and

WHEREAS, the City Council finds and declares that this Agreement serves a public purpose, which includes promotion of economic development, job growth, and the future expansion of the City's tax base.

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

2. **Commitments by Project Taylor**.

(a) *Expansion of Facilities; Capital Investment.* Project Taylor hereby represents and warrants that it intends to expand its manufacturing operations to a new structure within the jurisdictional boundaries of the City of Cocoa. In furtherance of said expansion, Project Taylor agrees to make a fixed capital investment of not less than $3,150,000.00 in new construction and tangible personal property prior to December 31, 2018.

(b) *Business Operations in Cocoa.* Project Taylor agrees to maintain its existing business operations within the jurisdictional boundaries of the City of Cocoa for the term of this Agreement.

(c) *Employees.* Project Taylor agrees that it shall increase the number of persons it employs by at least 126 by December 31, 2018, and that the average annual salary of its employees shall be at least $85,808.00.

(d) *Expansion of an Existing Business.* Project Taylor represents and warrants that, for purposes of receiving the economic incentives provided to Project Taylor by this Agreement, Project Taylor currently meets the definition of "expansion of an existing business," as that term is defined by section 196.012(15), Florida Statutes. Project Taylor agrees to maintain its qualifications as an "expansion of an existing business" during the entire term of this Agreement.

3. **Ad Valorem Tax Exemption.** The parties acknowledge that in accordance with Ordinance Numbers 17-2014 and 23-2005, the electorate of the City of Cocoa has granted the City Council the authority to grant property tax exemptions for new businesses and expansions of existing businesses. The parties further acknowledge that Project Taylor's anticipated investment to real property and tangible personal property pursuant to the terms of this Agreement, and the City Council's determination that Project Taylor's continued operations in the City of Cocoa are critical for the future economic development of the City, render Project Taylor eligible for an ad valorem tax exemption. Project Taylor has filed an application for ad valorem tax exemption with the City, and the City has processed the application in good faith and in accordance with the requirements established by the City and under Florida law. Conditioned upon Project Taylor's continuing obligation to comply with the terms and conditions set forth in this Agreement, the City Council approved Ordinance No. 12-2015 on August 25, 2015, granting Project Taylor an ad valorem tax exemption for a term of ten (10) years, commencing with the first year the new improvements and personal property are added to the assessment roll, and lasting nine (9) years thereafter, for eighty percent (80%) of the City's ad valorem taxes for years 1 through 5, and subsequently as follows:

70% of the City ad valorem taxes for year 6,
60% of the City ad valorem taxes for year 7,
50% of the City ad valorem taxes for year 8,
40% of the City ad valorem taxes for year 9, and
30% of the City ad valorem taxes for year 10.

4. **Annual Reports.** Project Taylor shall submit to the City an annual report on a form proscribed by the City, along with any necessary supporting documentation, providing evidence of continued compliance with the terms of this Agreement, and shall specifically provide evidence of continued compliance with the definition of "expansion of an existing business" as set forth in section 196.012(15), Florida Statutes, for each of the ten (10) years Project Taylor receives the ad valorem tax exemption. The annual report shall be provided to the City no later than January 31 of each year. Project Taylor shall also submit any other information or reports as the City Manager or City Council may deem reasonably necessary for purposes of determining whether Project Taylor is complying with the terms and conditions of this Agreement.

5. **Compliance with Laws.** Project Taylor shall be responsible for complying with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority regarding the location and continued operation of its business within the City of Cocoa.

6. **Work is a Private Undertaking.** With regard to Project Taylor's business operation and compliance with applicable laws, rules, and regulations, it is specifically understood and agreed to by and between the parties hereto that the contractual relationship between the City and Project Taylor is such that the Project Taylor is an independent contractor and not an agent of the City, and that this is not a business partnership or joint venture agreement. Project Taylor and its contractors, partners, agents, and employees are independent contractors and not employees of the City, and Project Taylor shall be in complete control over its business operations. Nothing in this Agreement shall be interpreted to establish any relationship other than that of an independent contractor, between the City and Project Taylor, its contractors, partners, employees, or agents, under this Agreement.

7. **Compliance Monitoring.** Project Taylor agrees that City control and monitoring of the economic incentives granted hereunder is necessary to insure that Project Taylor's implementation of its obligations to the City set forth in this Agreement are in furtherance of the municipal purposes declared by the City herein.

8. **Term; Termination; Remedies.**

(a) *Term.* This Agreement shall become effective upon full execution by both parties hereto and shall terminate one (1) year after Project Taylor has received the full benefit of the ad valorem tax exemption granted pursuant to Section 3 herein, unless the Agreement is terminated pursuant to this Section.

(b) *Termination by City.* The City shall have the right to terminate this Agreement upon any material breach of any term or condition of this Agreement by Project Taylor; if Project Taylor is declared bankrupt or insolvent; if Project Taylor adopts a plan or resolution of liquidation of Project Taylor or sells substantially all of its assets; if Project Taylor engages in fraud or misleading compliance reporting against the City; or if a receiver or trustee is appointed on behalf of Project Taylor for purposes of taking control of substantially all of Project Taylor's assets within the City of Cocoa, or the said assets are judicially seized for any reason, and possession of said assets are not released to Project Taylor within ninety (90) days.

(c) *Termination by Project Taylor.* Project Taylor may terminate this Agreement in the event of a material breach of any provision of this Agreement by the City, which shall include, but not be limited to, failing to fulfill any of its legal obligations under Section 3, herein.

(d) *Notice; Opportunity to Cure.* Prior to exercising its right to terminate this Agreement, the terminating party shall provide written notice to the non-terminating party setting forth the reason for termination and providing the non-terminating party 15 days from receipt of the notice to cure the alleged breach. If the alleged breach is not cured within said time period, this Agreement shall be deemed terminated, except with respect to any provision that affords a remedy in the event of a breach and any provision that expressly survives termination.

(e) *Remedies.* In the event of Project Taylor's breach of this Agreement, the City shall have the right to revoke the economic development incentives and to re-impose, in full, the ad valorem taxes waived pursuant to Section 3 herein, plus interest accrued at the maximum rate allowed by law. The City shall notify Project Taylor in writing regarding the revocation of the economic development incentives and such notice shall set forth the total sum due and owing to the City. Project Taylor shall reimburse the City within 30 days from Project Taylor's receipt of the City's notice unless Project Taylor cures the breach within 15 days of receiving the notice. Should Project Taylor fail to reimburse the City within 30 days, the City shall be entitled to recover the taxes due and owing to the City. Further, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in collecting said taxes through all appellate proceedings. Moreover, the City shall have the right to recover the taxes through any and all available legal means, including, but not limited to, reassessing taxes and assessments on the tax roles of Brevard County, Florida, and bringing an action in a state or federal court.

9. **Severability.** Should any section or any part of any section 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 section or any part of any section in this Agreement.

10. **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 Orlando, Florida for all federal court actions or disputes which arise out of or are based upon this Agreement.

11. **Integration; Modification.** The drafting, execution, and delivery of this Agreement by the parties have not been induced by any 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.

12. **Attorney's Fees.** Unless otherwise provided herein, each party agrees to bear their own attorneys' fees and costs in furtherance of this Agreement.

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

14. **Waiver.** No failure to insist on the prompt performance by Project Taylor 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 Project Taylor'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.

15. **Notices.** All notices required or permitted under this Agreement and any written consents or approvals required hereunder shall be in writing (including telecopy communication) and shall be (as elected by the person giving such notice) hand-delivered by messenger or overnight courier service, telecopied or mailed by registered or certified mail (postage pre-paid), return receipt requested, and addressed to each party at their respective addresses as set forth below or to such other addresses any party may designate by notice complying with the terms of this Section:

To CITY:

John A. Titkanich, AICP
Cocoa City Manager
65 Stone Street
Cocoa, FL 32922

w/copy to:

Anthony A. Garganese, City Attorney
Garganese, Weiss & D'Agresta, P.A.
P.O. Box 2873
Orlando, FL 32802-2873

To PROJECT TAYLOR:

PROJECT TAYLOR
Attn: GENERAL COUNSEL

_____
_____
_____

Such notice, request or other communication shall be considered given and deemed delivered: (a) on the date delivered if by personal delivery or courier service; (b) on the date of transmission with confirmed answer back if by telecopier if transmitted prior to 5:00 p.m. on a business day, and on the next business day if transmitted after 5:00 p.m. or on a non-business day, provided that a copy of the notice is provided within two business days thereafter by one of the other methods permitted by this Section; or (c) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed.

16. **Indemnification and Hold Harmless**. Project Taylor shall indemnify, hold harmless, and defend the City, from and against any and all claims, damages, losses, and expenses including, but not limited to, attorneys' fees, arising out of or resulting from the performance or provision of the terms and conditions of this Agreement, including damage to persons or property, provided that same is caused in whole or part by the error, omission, negligent act, failure to act, malfeasance, misfeasance, conduct, or misconduct of Project Taylor, its agents, servants, officers, officials, employees, or subcontractors.

The obligations arising under this Section 16 shall survive the expiration or termination of this Agreement, as to claims or causes of action, and liabilities, expenses, losses, costs, reasonable attorneys fees, damages, fines and penalties of every kind and character or incurred or suffered by the City as a result thereof, based upon events arising prior to the date of termination of this Agreement.

17. **Assignment.** This Agreement shall not be assigned by Project Taylor without the prior written consent of the City.

18. **No City Obligation for Future Funds.** No provision in this Agreement shall be construed as requiring the City to provide additional economic incentives of any kind, other than as specifically provided herein.

19. **Conflict of Interest.** Project Taylor represents and warrants, and this Agreement is being made by the City in reliance thereon, that Project Taylor and its officers, employees, and agents are neither officers nor employees of the City. Further, that no consideration of any kind is being paid, transferred, or conveyed directly to any City officer or employee, or indirectly to any City officer or employee through some other third party including a relative or legal entity, for the City's commitment to enter into this Agreement.

20. **Representations of Project Taylor.** Project Taylor represents to the City that (i) Project Taylor is duly authorized to conduct business in Florida; (ii) Project Taylor has the authority to enter into this Agreement and to perform the requirements of this Agreement; (iii) to Project Taylor's best knowledge, Project Taylor's performance under this Agreement shall not violate any applicable judgment, order, law, or regulation; (iv) to Project Taylor's best knowledge, Project Taylor's performance under this Agreement shall not result in the creation of any claim against the City for money or performance, any lien, charge, encumbrance or security interest upon any asset of the City; (v) Project Taylor shall have sufficient capital to perform its obligations under this Agreement; and (vi) Project Taylor does not require any third party consent to execute, deliver, and perform its obligations under this Agreement unless otherwise stated in this Agreement.

21. **Project Taylor's Continuing Disclosure Requirement.** Project Taylor must promptly notify the City of any developments that materially and adversely impact this Agreement and Project Taylor's obligations stated herein including, but not limited to, compliance with all applicable laws, rules, and regulations pertaining to clean air permits, initiation of any law suits or bankruptcy proceedings, sale or conveyance of real property, labor disputes, and changes in business operations.

22. **No Delegation of Police Power.** Project Taylor shall not pledge the credit of the City nor make the City a guarantor of payment or surety for any contract, debt, or obligation, judgment, lien, or any form of indebtedness. The parties agree that this Agreement does not nor shall it be construed as a delegation of any of the City's authority or police powers to Project Taylor.

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

ATTEST:

Carie Shealy, City Clerk

The City of Cocoa,
a Florida municipal corporation.

John A. Titkanich, City Manager

Date: 9/22/2015

PROJECT TAYLOR,
a Delaware limited liability company.

Name: JOHN CHITTENDEN

Title: GENERAL COUNSEL

Date: 9/17/15

STATE OF FLORIDA)
COUNTY OF BREVARD)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared JOHN CHITTENDEN, GENERAL COUNSEL of **PROJECT TAYLOR** a Delaware limited liability company, who is [X] personally known to me or [ ] has produced _____ as identification.

Susan E. Drake

Notary Public - State of Florida

Printed Name SUSAN E DRAKE

My Commission Expires: _____

SUSAN E. DRAKE
MY COMMISSION #FF202300
EXPIRES: FEB 23, 2019
Bonded through 1st State Insurance

ECONOMIC DEVLOPMENT INCENTIVE GRANT AGREEMENT

THIS ECONOMIC DEVELOPMENT INCENTIVE GRANT AGREEMENT ("**Grant Agreement**" or "**Agreement**") is made and entered into this 22nd day of September, 2015, by and between the **CITY OF COCOA, FLORIDA,** a Florida municipal corporation ("**City**"), and **PROJECT TAYLOR,** a Delaware limited liability company authorized to do business in the State of Florida ("**Project Taylor**").

RECITALS:

WHEREAS, section 166.021(8), Florida Statutes provides that the Legislature has determined that there is a need to enhance and expand economic activity within municipalities by attracting and retaining business enterprises; and

WHEREAS, section 166.021(8)(b) also expressly provides that a municpality may expend public funds to attract and retain business enterprises and that the use of such funds toward the achievement of such economic development goals constitutes a public purpose; and

WHEREAS, the City is also vested with broad municpal home rule powers granted by s. 2(b), Art. VIII of the Florida Constitution, which would include the power to provide economic incentives to businesses to locate and expand within the City of Cocoa; and

WHEREAS, the City Council has established a strategic priority to pursue economic development and diversification of the City's tax base to facilitate job creation; and

WHEREAS, Project Taylor, established in 2006, is a manufacturer of therapeutic medical products, employing 57 individuals (49 employees based in Cocoa), and currently located in the City of Cocoa; and

WHEREAS, Project Taylor currently leases space in three facilities including a 6,000 square foot facility in the City of Cocoa and intends to expand further into a 22,000 square foot building, create 126 new jobs prior to December 31, 2018, and invest approximately $3,150,000 in new capital investment in order to increase its manufacturing capabilities by adding a new facility and new machining equipment; and

WHEREAS, the City desires to provide Project Taylor with certain economic incentives in furtherance of the municipal purpose of expanding economic activity within its jurisdictional borders consistent with section 166.021(8), Florida Statutes; and

WHEREAS, on August 11, 2015, the City Council approved an Economic Development Incentive (EDI) Fund for Project Taylor in the amount of $500 per new job created, not to exceed $50,000, subject to the terms and conditions herein; and

WHEREAS, the parties recognize this Agreement is necessary to ensure that the economic incentives provided by the City to Project Taylor ultimately serve their intended municipal purpose; and

WHEREAS, the City has established terms and conditions herein whereby Project Taylor, by complying with these terms and conditions, can receive the benefits outlined in this Agreement, while the City can fulfill its desire to support local employers, to create jobs and to significantly enhance the prospects of local economic development; and

WHEREAS, the parties agree that the economic incentives provided by the City hereunder are for the benefit of the public health, safety, welfare, and convenience of the citizens of the City of Cocoa; and

WHEREAS, the City Council finds and declares that this Agreement serves a public purpose, which includes promotion of economic development, job growth, and the future expansion of the City's tax base.

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

2. **Commitments by Project Taylor**.

(a) *Expansion of Facilities; Capital Investment.* Project Taylor hereby represents and warrants that it intends to expand its manufacturing operations to an existing structure within the jurisdictional boundaries of the City of Cocoa. In furtherance of said expansion, Project Taylor agrees to make a fixed capital investment of not less than $3,150,000.00 in new construction and tangible personal property prior to December 31, 2018.

(b) *Business Operations in Cocoa.* Project Taylor agrees to maintain its business operations within the jurisdictional boundaries of the City of Cocoa for the term of this Agreement.

(c) *Employees.* Project Taylor agrees that it shall increase the number of persons it employs by at least 126 by December 31, 2018, and that the average annual salary of its employees shall be at least $85,808.00.

(d) *Expansion of an Existing Business.* Project Taylor represents and warrants that, for purposes of receiving the economic incentives provided to Project Taylor by this Agreement, Project Taylor currently meets the definition of "expansion of an existing business," as that term is defined by section 196.012(15), Florida Statutes. Project Taylor agrees to maintain its qualifications as an "expansion of an existing business" during the entire term of this Agreement.

3. **Economic Development Incentive Grant Award.** The parties acknowledge that the economic development incentive grant award to Project Taylor shall be subject to Resolution 2014-19. Further, the grant award authorized by this Agreement, in accordance with Resolution

2014-19, shall be on a reimbursement basis and shall be subject to the following minimum requirements:

a. Project Taylor is authorized to receive a grant award from the City in the amount of up to Five-Hundred and No/00 Dollars ($500) per new employee, not to exceed the total sum of Fifty-Thousand and No/00 Dollars ($50,000.00) ("**Grant Award**"), which Grant Award may only be utilized for the limited expenditures authorized in Resolution 2014-19, attached herto and fully incorporated herein by this reference as **Exhibit "A"**. In no event shall Project Taylor receive Grant Award funds in excess of $50,000.00 under this Agreement, without separate and additonal approval of the City Council.

b. The Grant Award shall be based solely on out-of-pocket costs incurred by the recipient and shall not include any in-kind contributions or internal work performed by the recipient and recipient's employees.

c. Before any reimbursement is made by the City, the City's Office of Economic Development must confirm and verify that the recipient has fully completed and paid for the expenditures authorized to be reimbursed pursuant to this Grant Agreement. Verification shall require that, at a minimum, the recipient has provided to the City copies of all applicable receipts, invoices, payment documentation, and completion certificates.

d. The City shall have the right to rescind this Grant Agreement and demand an immediate refund of any grant funds provided by the City if Project Taylor fails to comply with any material terms or condition set forth in this Grant Agreement.

e. This Agreement is subject to all of the terms and conditions set forth in Resolution 2014-19, whether or not any such term or condition is explictly referred to herein.

4. **Annual Reports.** Project Taylor shall submit to the City an annual report on a form proscribed by the City, along with any necessary supporting documentation, providing evidence of continued compliance with the terms of this Agreement, and shall specifically provide evidence of continued compliance with the definition of "expansion of an existing business" as set forth in section 196.012(15), Florida Statutes, for ten (10) years. The annual report shall be provided to the City no later than January 31 of each year. Project Taylor shall also submit any other information or reports as the City Manager or City Council may deem reasonably necessary for purposes of determining whether Project Taylor is complying with the terms and conditions of this Agreement.

5. **Supplemental Incentives; Appropriations.** The Grant Award shall be deemed supplemental to any other economic development incentive program offered by the City. Nothing herein shall be construed or interpreted as requiring the City Council to budget and appropriate any funds except as specifically authorized herein. Any and all such appropriations are made at the sole discretion of the City Council.

6. **Compliance with Laws.** Project Taylor shall be responsible for complying with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority regarding the location and continued operation of its business within the City of Cocoa.

7. **Work is a Private Undertaking.** With regard to Project Taylor's business operation and compliance with applicable laws, rules, and regulations, it is specifically understood and agreed to by and between the parties hereto that the contractual relationship between the City and Project Taylor is such that the Project Taylor is an independent contractor and not an agent of the City, and that this is not a business partnership or joint venture agreement. Project Taylor and its contractors, partners, agents, and employees are independent contractors and not employees of the City, and Project Taylor shall be in complete control over its business operations. Nothing in this Agreement shall be interpreted to establish any relationship other than that of an independent contractor, between the City and Project Taylor, its contractors, partners, employees, or agents, under this Agreement.

8. **Compliance Monitoring.** Project Taylor agrees that City control and monitoring of the economic incentives granted hereunder is necessary to insure that Project Taylor's implementation of its obligations to the City set forth in this Agreement are in furtherance of the municipal purposes declared by the City herein.

9. **Term; Termination; Remedies.**

(a) *Term.* This Agreement shall become effective upon full execution by both parties hereto and shall terminate in ten (10) years, unless the Agreement is terminated pursuant to this Section.

(b) *Termination by City.* The City shall have the right to terminate this Agreement upon any material breach of any term or condition of this Agreement by Project Taylor; if Project Taylor is declared bankrupt or insolvent; if Project Taylor adopts a plan or resolution of liquidation of Project Taylor or sells substantially all of its assets; if Project Taylor engages in fraud or misleading compliance reporting against the City; or if a receiver or trustee is appointed on behalf of Project Taylor for purposes of taking control of substantially all of Project Taylor's assets within the City of Cocoa, or the said assets are judicially seized for any reason, and possession of said assets are not released to Project Taylor within ninety (90) days.

(c) *Termination by Project Taylor.* Project Taylor may terminate this Agreement in the event of a material breach of any provision of this Agreement by the City, which shall include, but not be limited to, failing to fulfill any of its legal obligations under Section 3, herein.

(d) *Notice; Opportunity to Cure.* Prior to exercising its right to terminate this Agreement, the terminating party shall provide written notice to the non-terminating party setting forth the reason for termination and providing the non-terminating party 15 days from receipt of the notice to cure the alleged breach. If the alleged breach is not cured within said time period, this Agreement shall be deemed terminated, except with respect to any provision that affords a remedy in the event of a breach and any provision that expressly survives termination.

(e) *Remedies.* In the event of Project Taylor's breach of this Agreement, the City shall have the right to revoke the economic development incentives and to demand an immediate refund, in full, of the Grant Award provided to Project Taylor pursuant to Section 3 herein, plus interest accrued at the maximum rate allowed by law. The City shall notify Project Taylor in writing regarding the revocation of the economic development incentives and such notice shall set forth the total sum due and owing to the City. Project Taylor shall reimburse the City within 30 days from Project Taylor's receipt of the City's notice unless Project Taylor cures the breach within 15 days of receiving the notice. Should Project Taylor fail to reimburse the City within 30 days, the City shall be entitled to recover the refund due and owing to the City. Further, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in collecting said taxes through all appellate proceedings. Moreover, the City shall have the right to recover the Grant Award through any and all available legal means, including, but not limited to, bringing an action in a state or federal court.

10. **Severability.** Should any section or any part of any section 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 section or any part of any section in this Agreement.

11. **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 Orlando, Florida for all federal court actions or disputes which arise out of or are based upon this Agreement.

12. **Integration; Modification.** The drafting, execution, and delivery of this Agreement by the parties have not been induced by any 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.

13. **Attorney's Fees.** Unless otherwise provided herein, each party agrees to bear their own attorneys' fees and costs in furtherance of this Agreement.

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

15. **Waiver.** No failure to insist on the prompt performance by Project Taylor 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 Project Taylor'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.

16. **Notices.** All notices required or permitted under this Agreement and any written consents or approvals required hereunder shall be in writing (including telecopy communication) and shall be (as elected by the person giving such notice) hand-delivered by messenger or overnight courier service, telecopied or mailed by registered or certified mail (postage pre-paid), return receipt requested, and addressed to each party at their respective addresses as set forth below or to such other addresses any party may designate by notice complying with the terms of this Section:

To CITY:	w/copy to:
John A. Titkanich, AICP Cocoa City Manager 65 Stone Street Cocoa, FL 32922	Anthony A. Garganese, City Attorney Garganese, Weiss & D'Agresta, P.A. P.O. Box 2873 Orlando, FL 32802-2873

To PROJECT TAYLOR:

PROJECT TAYLOR
Attn: GENERAL COUNSEL

_____
_____
_____

Such notice, request or other communication shall be considered given and deemed delivered: (a) on the date delivered if by personal delivery or courier service; (b) on the date of transmission with confirmed answer back if by telecopier if transmitted prior to 5:00 p.m. on a business day, and on the next business day if transmitted after 5:00 p.m. or on a non-business day, provided that a copy of the notice is provided within two business days thereafter by one of the other methods permitted by this Section; or (c) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed.

17. **Indemnification and Hold Harmless**. Project Taylor shall indemnify, hold harmless, and defend the City, from and against any and all claims, damages, losses, and expenses including, but not limited to, attorneys' fees, arising out of or resulting from the performance or provision of the terms and conditions of this Agreement, including damage to persons or property, provided that same is caused in whole or part by the error, omission, negligent act, failure to act, malfeasance, misfeasance, conduct, or misconduct of Project Taylor, its agents, servants, officers, officials, employees, or subcontractors.

The obligations arising under this Section 16 shall survive the expiration or termination of this Agreement, as to claims or causes of action, and liabilities, expenses, losses, costs, reasonable attorneys fees, damages, fines and penalties of every kind and character or incurred or suffered by the City as a result thereof, based upon events arising prior to the date of termination of this Agreement.

18. **Assignment.** This Agreement shall not be assigned by Project Taylor without the prior written consent of the City.

19. **No City Obligation for Future Funds.** No provision in this Agreement shall be construed as requiring the City to provide additional economic incentives of any kind, other than as specifically provided herein.

20. **Conflict of Interest.** Project Taylor represents and warrants, and this Agreement is being made by the City in reliance thereon, that Project Taylor and its officers, employees, and agents are neither officers nor employees of the City. Further, that no consideration of any kind is being paid, transferred, or conveyed directly to any City officer or employee, or indirectly to any City officer or employee through some other third party including a relative or legal entity, for the City's commitment to enter into this Agreement.

21. **Representations of Project Taylor.** Project Taylor represents to the City that (i) Project Taylor is duly authorized to conduct business in Florida; (ii) Project Taylor has the authority to enter into this Agreement and to perform the requirements of this Agreement; (iii) to Project Taylor's best knowledge, Project Taylor's performance under this Agreement shall not violate any applicable judgment, order, law, or regulation; (iv) to Project Taylor's best knowledge, Project Taylor's performance under this Agreement shall not result in the creation of any claim against the City for money or performance, any lien, charge, encumbrance or security interest upon any asset of the City; (v) Project Taylor shall have sufficient capital to perform its obligations under this Agreement; and (vi) Project Taylor does not require any third party consent to execute, deliver, and perform its obligations under this Agreement unless otherwise stated in this Agreement.

22. **Project Taylor's Continuing Disclosure Requirement.** Project Taylor must promptly notify the City of any developments that materially and adversely impact this Agreement and Project Taylor's obligations stated herein including, but not limited to, compliance with all applicable laws, rules, and regulations pertaining to clean air permits, initiation of any law suits or bankruptcy proceedings, sale or conveyance of real property, labor disputes, and changes in business operations.

23. **No Delegation of Police Power.** Project Taylor shall not pledge the credit of the City nor make the City a guarantor of payment or surety for any contract, debt, or obligation, judgment, lien, or any form of indebtedness. The parties agree that this Agreement does not nor shall it be construed as a delegation of any of the City's authority or police powers to Project Taylor.

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

ATTEST:

Carie Shealy, City Clerk

The City of Cocoa,
a Florida municipal corporation.

John A. Titkanich, City Manager

Date: 9/22/2015

PROJECT TAYLOR, a Delaware limited liability company.

Name: JOHN C. WEIGHTED

Title: GENERAL COUNSEL

Date: 9/17/15

STATE OF FLORIDA)
COUNTY OF BREVARD)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared JOHN WEIGHTED, GENERAL COUNSEL of **PROJECT TAYLOR**, a Delaware limited liability company authorized to do business in the State of Florida, who is [ ] personally known to me or [X] has produced _____ as identification.

Susan E. Drake
Notary Public - State of FLORIDA

Printed Name SUSAN E. DRAKE
My Commission Expires: _____

SUSAN E. DRAKE
MY COMMISSION #FF202300
EXPIRES: FEB 23, 2019
Bonded through 1st State Insurance

RESOLUTION NO. 2014- 019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; ESTABLISHING A GENERAL ECONOMIC INCENTIVE GRANT PROGRAM FOR NEW AND EXPANDING BUSINESSES LOCATED WITHIN THE CITY OF COCOA; MAKING LEGISLATIVE FINDINGS OF PUBLIC PURPOSE; PROVIDING FOR ELIGIBILITY AND GRANT REQUIREMENTS; PROVIDING APPLICATION REQUIREMENTS AND PROCESSING PROCEDURES; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, section 166.021(8), Florida Statutes provides that the Legislature has determined that there is a need to enhance and expand economic activity within municipalities by attracting and retaining business enterprises; and

WHEREAS, section 166.021(8)(b) also expressly provides that a municipality may expend public funds to attract and retain business enterprises and the use of such funds toward the achievement of such economic development goals constitutes a public purpose; and

WHEREAS, the City is also vested with broad municipal home rule powers granted by s. 2(b), Art. VIII of the Florida Constitution which would include the power to provide economic incentives to businesses to locate and expand with the City of Cocoa

WHEREAS, the City Council of the City of Cocoa, Florida has established a strategic priority to pursue economic development and diversification of the City's tax base to facilitate job creation; and

WHEREAS, in furtherance of this strategic priority, the City Council has determined that offering economic development incentives encourages new businesses to locate and existing businesses to expand within the City of Cocoa creates new employment opportunities for the residents of the City; and

WHEREAS, the City desires to stimulate economic growth by recruiting and attracting new businesses to locate within the City of Cocoa and by encouraging existing businesses with the City to expand; and

WHEREAS, the creation of new employment opportunities and the increased tax revenues generated from new and expanded businesses are beneficial to the local economy; and

WHEREAS, the City Council finds and declares that it is in the public's best interest to award economic development incentives to new and expanding small businesses within the City of Cocoa as part of the overall strategic economic development policy of the City; and

WHEREAS, the intent and purpose of this Resolution is to establish a general Economic Incentive Program for the City of Cocoa, which will authorize the City to provide economic financial incentives to eligible new and expanding businesses within the City of Cocoa; and

WHEREAS, the objective of the General Economic Incentive Program is to encourage certain new businesses to locate within the City of Cocoa and to encourage certain existing businesses within the City of Cocoa to expand their business operations for purposes of enhancing the economy of the City and to create new job and business opportunities for the residents and businesses of Cocoa; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AS FOLLOWS:

Section 1. Recitals; Title. The foregoing recitals are affirmed and incorporated as part of this Resolution as legislative findings of the City Council of Cocoa. Upon adoption, this Resolution may be referred to as the "City of Cocoa Economic incentive Program (hereinafter sometimes referred to as the "EIP")."

Section 2. Adoption of Guidelines and Procedures. The City Council hereby adopts the following guidelines and procedures for the EIP as follows:

I. Eligibility. A new business and an existing business with expansion plans shall be eligible for an economic incentive under this Resolution; provided, however, the business satisfies the following criteria:

a. To qualify as a "New Business," the business must not be currently operating within the City of Cocoa (including any subsidiary or parent company thereof) and must meet all of the following factors:

1. The business establishes at least 10 or more new jobs to employ 10 or more full-time equivalent employees in the City within the first year of commencing operations within the City, provided the new jobs have an average annual salary of not less than the lower living wage of Brevard County.

2. The business qualifies as a "target industry business" as defined by s. 288.106(2)(q), Florida Statutes. The following businesses are expressly not eligible for a grant under this Resolution: property management or leasing companies; home occupation; sexually oriented business, vehicle sales, repair, services and storage; vehicle or other fuel sales; check cashing stores; convenience stores; liquor or package store; tattoo establishment; pawn shop; flea market; car wash; title loan business; bar or club; tobacco related business; bail bonds; or any use prohibited by the City Code.

3. The business will invest at least $250,000 in land, building, or equipment purchases within the first year of commencing operations within the City.

Notwithstanding the aforesaid, the City reserves the right, on a case-by-case basis, to consider the eligibility of other businesses that the City deems a high value economic development project that will create a significant and positive economic impact on the City.

b. For an existing business to qualify, the existing business must have plans to expand business operations within the City of Cocoa by or through the acquisition of real property or capital infrastructure improvements and the business must meet all of the following factors:

1. The expansion directly results in the creation of at least 10 or more new jobs to employ 10 or more full-time equivalent employees in the City within the first year of completing the expansion of business operations, provided the new jobs have an average annual salary of not less than the lower living wage of Brevard County.

2. The business qualifies as a "target industry business" as defined by s. 288.106(2)(q), Florida Statutes.

3. The expansion must commence within 12 months of the date that the grant application is submitted to the City and be completed no later than 12 months from the date that the expansion commences unless less time is required by Grant Agreement.

4. The expansion includes a minimum investment of at least $250,000 in land, building, or equipment purchases.

For purposes of this Section I, the term "jobs" shall have the same meaning as the same definition set forth in s. 288.106(2)(i), Florida Statutes.

II. Eligible Grant Amounts. If a business is eligible for consideration of a grant under this Resolution, the maximum total grant potentially available shall be $100,000, provided that a maximum $50,000 is available as a general grant from the City's general fund economic development budget allocation and a maximum $50,000 is available as a utility improvement grant from the City's utility fund economic development budget allocation. Once a business receives the maximum grant amount in total or from either fund the business shall no longer be eligible for grant funding above the total or fund maximum amount stated in this Resolution, whichever may be the case.

III. Minimum Funding Requirements. Grant awards under this Resolution shall be on a reimbursement basis and shall be subject to the following minimum requirements:

a. All grant awards shall be subject to a written agreement between the City and the grant recipient ("Grant Agreement"). The Grant Agreement shall be in a form approved by the

City Attorney and City Manager. Grant Agreements shall not be binding upon the City unless the written agreement is approved by the City Council and executed by the City Manager or Mayor in a manner consistent with the requirements of this Resolution. Oral representations made by any City official regarding the EIP shall be nonbinding upon the City.

b. General fund economic development grant funds provided under this Resolution shall be on a reimbursement basis and shall be used only for the following limited expenditures: (i) building or capital improvements to the business location with the City of Cocoa, provided such improvements are subject to ad valorem or tangible property taxes; (ii) the acquisition of real property on which a new building or expansion of existing building will be constructed; (iii) relocation expenses of existing employees that will fill the new jobs that will be relocated to the City of Cocoa; and (iv) City development permit fees including impact fees, building permit fees, zoning permit fees, and business tax receipts.

c. Utility fund economic development grant funds provided under this Resolution shall be on a reimbursement basis and shall be used only for water, sewer, stormwater, and reclaimed water utility related on-site or off-site capital improvements.

d. Building and capital improvements covered by the Grant Agreement must comply with applicable laws and shall only be reimbursed if the City certifies that the improvements have been completed by the recipient.

e. Grants for development fee reimbursement shall be paid as a credit to offset the development payment fee balance owed the City. If the credit is insufficient to cover the entire fee owned the City, the credit will be applied at such time the fee is deemed owed pursuant to City policy and the recipient has fully paid any remaining balance owned the City on the subject fee.

f. The grant provided under this Resolution shall be based solely on out-of-pocket costs incurred by the recipient and shall not include any in-kind contributions or internal work performed by the recipient and recipient's employees.

g. Before any reimbursement is made by the City, the City's Office of Economic Development must confirm and verify that the recipient has fully completed and paid for the expenditures authorized to be reimbursed by the Grant Agreement. Verification shall require that, at a minimum, the recipient has provided to the City copies of all applicable receipts, invoices, payment documentation, and completion certificates.

IV. Application Requirements.

a. Completed grant applications will be processed on a first come, first served basis. Completed grant applications shall be submitted to the Office of Economic Development for the City of Cocoa, 65 Stone Street, Cocoa, FL 32922 on a form approved by the City Manager and shall be accompanied with the following minimum information, if applicable:

1. The legal name of the business and a brief description of the purpose of the business.
2. Copy of certificate of good standing issued by the State of Florida evidencing the business is authorized to do business in the State.
3. The federal employer identification number and, if applicable, state sales tax registration number.
4. The location of the business or proposed permanent location of the applicant's business at which the project is to be located.
5. Whether the business is or will be located with an enterprise zone or brownfield area within the City of Cocoa.
6. The primary business contact for the duly authorized representative of the business.
7. A description of the type of business activity or product covered by the project, including a minimum of a five-digit NAICS code for all activities included in the project.
8. The proposed number of new jobs (full-time and part-time) that are committed to be created and related job descriptions, wages to be paid, and a timeframe for hiring.
9. The average annual wage committed to be paid.
10. The anticipated date operations will commence.
11. If an expanding business, number of current jobs being retained.
12. The amount and brief description of capital investment committed to be made.
13. A brief description of utility impacts, connections, or extensions within the City.
14. A brief statement explaining the role that the anticipated incentives will play in the decision of the applicant to locate or expand in the City, and the desired use of the incentives provided by the City.

b. Incomplete and ineligible applications will not be processed by the City. If an application is deemed incomplete or the City requires additional information in order to process the application, the applicant will be notified and afforded an opportunity to correct the

deficiency and provide additional information. Once the City staff determines and application is complete and eligible for potential grant funding, the following will occur:

1. City staff shall review the application according to the criteria and requirements established under this Resolution and provide a written recommendation to the City Council in the form of an Agenda Item. City staff is authorized to establish scoring criteria and sheet for purposes of formulating their recommendation and said criteria shall weigh applications more favorably based on the number of jobs created, the total amount of capital investment to be undertaken by the recipient, the average annual wage of the new jobs, and whether the business is located or will be located within the City's enterprise zone or brownfields area. Preference may be given to businesses that are or will be located within a City enterprise zone or brownfield designated area.

2. City staff, with the assistance of the City Attorney, will prepare a draft Grant Agreement for the City Council's consideration if the staff recommendation is to approve the grant application.

3. City Council shall not be bound by City staff's recommendation. City Council, in its sole discretion, consider the recommendation of City staff and any proposed Grant Agreement and either approve, approve with modifications, or deny the application by majority vote, and determine whether any funds will be made available to the applicant. No precedent shall be implied or inferred by any decision of the City Council pursuant to this Resolution.

V. Minimum Grant Agreement Performance Conditions. All Grant Agreements approved under this Resolution shall require the grant recipient to maintain the new business or expansion of an existing business in accordance with the eligibility requirements set forth in Section I of this Resolution for a specific duration of time commensurate with the amount and timing of the grant provided by the City, provided the duration shall not be less than two (2) years. Further, the Grant Agreement shall require the recipient to submit an annual report to the City evidencing compliance with the terms and conditions of the Agreement. The report shall be received by Council no later than January 31 of each year for the fiscal year that begins on October 1 following the January 31 report submission date. In addition, the Grant Agreement shall provide that the City shall have the right to rescind the Grant Agreement and demand an immediate refund of any grant funds provided by the City if the recipient fails to comply with any material terms of condition set forth in the Grant Agreement.

VI. Supplemental Incentives; Appropriations. Any grant award approved under this Resolution shall be deemed supplemental to any other economic development incentive program offered by the City. Nothing herein shall be construed or interpreted as requiring the City Council to budget and appropriate any funds to the EIP. Any and all such appropriations shall be made at the sole discretion of the City Council.

Section 3. State Reporting Requirements. Pursuant to Section 166.021(8)(e), Florida Statutes, City staff shall report annually to the State of Florida, Office of Economic and

Demographic Research detailing any economic development incentives in excess of $25,000 given to any business during the City's previous fiscal year. The City's report shall be on a form prescribed by the Office of Economic and Demographic Research

Section 4. Repeal of prior inconsistent resolutions. All prior inconsistent resolutions or any parts thereof in conflict herewith are hereby repealed to the extent of the conflict.

Section 5. Severability. Should any section or provision of this resolution or any portion hereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereto as a whole or part thereof to be declared invalid.

Section 6. Effective date. This Resolution shall become effective immediately upon its adoption by the City of Cocoa, Florida.

Adopted at a Regular Meeting of the City of Cocoa, Florida, assembled this 11th day of February, 2014.

Henry U. Parrish, III, Mayor

ATTEST:

Joan Clark, City Clerk, CMC

ORDINANCE NO. 12-2015

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; GRANTING AN ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION TO PROJECT TAYLOR; PROVIDING AN EXPIRATION DATE FOR THE EXEMPTION; FINDING THAT THE BUSINESS MEETS THE REQUIREMENTS OF SECTION 196.012(15), FLORIDA STATUTES; PROVIDING FOR PROOF OF ELIGIBILITY FOR EXEMPTION; PROVIDING A REQUIREMENT FOR AN ANNUAL REPORT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City is granted the authority, under Section 2(b), Article VIII, of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, economic development and the creation of jobs are priorities of the City Council of the City of Cocoa; and

WHEREAS, the citizens of Cocoa voted to provide economic incentives to new and expanding businesses in the November 8, 2005 and November 4, 2014 general elections; and

WHEREAS, Project Taylor ("Project Taylor") has requested that the City of Cocoa exempt from ad valorem taxation the assessed value of proposed new improvements to its real property made to facilitate the expansion of its business in retail, development and manufacturing of therapeutic medical products, and all of the net increase in tangible personal property it acquires to facilitate such expansion; and

WHEREAS, the Property Appraiser has provided the City of Cocoa with its report as required by section 196.1995(9), Florida Statutes; and

WHEREAS, it has been determined that Project Taylor meets the requirements of section 196.012(15), Florida Statutes, as an expansion of an existing business located in Cocoa; and

WHEREAS, the City Council of the City of Cocoa, Florida, hereby finds this ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Cocoa.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The foregoing recitals are hereby fully incorporated herein by this reference as legislative findings and the intent and purpose of the City Council of the City of Cocoa.

Section 2. **Economic Development Ad Valorem Tax Exemption.**

(a) An economic development ad valorem tax exemption is hereby granted to Project Taylor, located in Cocoa, Florida, for new improvements to real property and tangible personal property purchased as equipment.

(b) The total amount of revenue available to the City of Cocoa from ad valorem tax sources for the current fiscal year is $4,668,943.41. The City of Cocoa loses $7,877.39 for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect from previous years.

(c) The estimated taxable value lost to the City of Cocoa for the current fiscal year attributable to the exemption granted to Project Taylor is $1,317,500 for improvements to real property and $1,440,000 for personal property. The estimate of the revenue which will be lost to the City of Cocoa during the current fiscal year if the exemption applied for were granted had the property for which the exemption is requested otherwise been subject to taxation is $16,487.09.

(d) The tax exemption hereby granted shall be for a term of ten (10) years, commencing with the first year the new improvements and personal property are added to the assessment roll, and lasting seven (9) years thereafter, for eighty percent (80%) of the City ad valorem taxes for years 1 through 5, and subsequently as follows:

70% of the City ad valorem taxes for year 6,
60% of the City ad valorem taxes for year 7,
50% of the City ad valorem taxes for year 8,
40% of the City ad valorem taxes for year 9, and
30% of the City ad valorem taxes for year 10.

(e) In accordance with the findings of the Cocoa City Council and the Brevard County Property Appraiser, the property hereby exempted from ad valorem tax exemption meets the definition of an expansion to an existing business, as defined by section 196.012(15), Florida Statutes.

(f) The economic development ad valorem tax exemption is subject to the terms and conditions of Resolution 2014-18 and/or other terms and conditions required by the City Council.

Section 3. **Evidence of Continued Eligibility.**

(a) Project Taylor shall submit to the City of Cocoa an annual report providing

evidence of continued compliance with the definition of a "new business" or an "expansion of an existing business" for each of the ten (10) years during which Project Taylor is eligible to receive ad valorem tax exemption. The annual report shall be received by the City Council no later than January 31 of each year.

(b) If the annual report is not received, or if the annual report indicates that Project Taylor no longer meets the criteria of section 196.012, Florida Statutes, the City Council shall revoke by ordinance this economic development ad valorem tax exemption, reimpose the ad valorem taxes exempted, and Project Taylor shall be required to make payment of the taxes exempted in addition to interest accrued at the maximum rate allowed by law.

Section 4. Repeal of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 5. Not Incorporated Into Code. This ordinance shall not be incorporated into the Cocoa City Code.

Section 6. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 7. Effective Date. This Ordinance shall become effective upon adoption by the City Council of the City of Cocoa, Florida and upon the complete execution of an Economic Incentive Agreement between the City of Cocoa and Project Taylor.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on this 25th day of August, 2015.

Henry L. Parrish, III, Mayor

ATTEST:

Carie Shealy, City Clerk

First Reading: 8/11/15
Second Reading: 8/25/15
Effective Date:8/25/15
Legal Ad Published: 8/15/15

CITY OF COCOA
NOTICE OF PUBLIC HEARING

May 22, 2019

NOTICE is hereby given that the City of Cocoa, Florida, will hold a Public Hearing at 6:00 p.m. on Wednesday, May 22, 2019, in City Council Chambers, located at 65 Stone Street, in Cocoa, Florida.

The City Council will consider adopting the following Ordinances on Second Reading, titled as follows:

ORDINANCE 03-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO CROSS BRANDS MANUFACTURING, L.L.C. ORIGINALLY AUTHORIZED BY ORDINANCE 11-2016; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

ORDINANCE NO. 05-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO DIAMONDBACK CNC, LLC ORIGINALLY AUTHORIZED BY ORDINANCE 08-2012; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

ORDINANCE NO. 06-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO GENO, LLC ORIGINALLY AUTHORIZED BY ORDINANCE 12-2015; REIMPOSING THE AD VALOREM TAXES EXEMPTED FOR 2016 PURSUANT TO ORDINANCE 12-2015 TO THE EXTENT ALLOWED BY LAW; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

ORDINANCE NO. 07-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO PARAGON PLASTICS, INC. ORIGINALLY AUTHORIZED BY ORDINANCE 17-2011; REIMPOSING THE AD VALOREM TAXES EXEMPTED FOR 2016 PURSUANT TO ORDINANCE 17-2011 TO THE EXTENT

ALLOWED BY LAW; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

This is a public meeting. All interested parties may attend. The facility wherein the public meeting will be held is accessible to the physically handicapped.

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

Members of the public are encouraged to comment on the proposed ordinances at the meeting. Comments may also be submitted in writing to the Office of the City Clerk, 65 Stone Street, Cocoa, FL 32922, or by email (cshealy@cocoafl.org), or by telephone by calling (321) 433-8484.

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 (321) 433-8484

Further information may be obtained by calling the City Clerk at the above listed number.

Dated this the 10th
day of May, 2019.

Carie Shealy, MMC, City Clerk

FLORIDA TODAY
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Classified Ad Receipt
(For Info Only - NOT A BILL)

Customer: CITY OF COCOA (TE)

Address: 65 STONE ST
COCOA FL 32922
USA

Ad No.: 0003593613
Pymt Method Invoice
Net Amt: $379.34

Run Times: 1

No. of Affidavits: 1

Run Dates: 06/02/19

Text of Ad:

CITY OF COCOA
NOTICE OF PUBLIC HEARING

June 12, 2019

NOTICE is hereby given that the City of Cocoa, Florida, will hold a Public Hearing at 6:00 p.m. on Wednesday, June 12, 2019, in City Council Chambers, located at 65 Stone Street, in Cocoa, Florida.

The City Council will consider adopting the following Ordinances on Second Reading, titled as follows:

ORDINANCE 03-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO CROSS BRANDS MANUFACTURING, L.L.C. ORIGINALLY AUTHORIZED BY ORDINANCE 11-2016; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

ORDINANCE NO. 05-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO DIAMONDBACK CNC, LLC ORIGINALLY AUTHORIZED BY ORDINANCE 08-2012; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

ORDINANCE NO. 06-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO GENO, LLC ORIGINALLY AUTHORIZED BY ORDINANCE 12-2015; REIMPOSING THE AD VALOREM TAXES EXEMPTED FOR 2016 PURSUANT TO ORDINANCE 12-2015 TO THE EXTENT ALLOWED BY LAW; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

ORDINANCE NO. 07-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO PARAGON PLASTICS, INC. ORIGINALLY AUTHORIZED BY ORDINANCE 17-2011; REIMPOSING THE AD VALOREM TAXES EXEMPTED FOR 2016 PURSUANT TO ORDINANCE 17-2011 TO THE EXTENT ALLOWED BY LAW; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

This is a public meeting. All interested parties may attend. The facility wherein the public meeting will be held is accessible to the physically handicapped.

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

Members of the public are encouraged to comment on the proposed ordinances at the meeting. Comments may also be

at the meeting. Comments may also be submitted in writing to the Office of the City Clerk, 65 Stone Street, Cocoa, FL 32922, or by email (cshealy@cocoafl.org), or by telephone by calling (321) 433-8484.

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 (321) 433-8484

Further information may be obtained by calling the City Clerk at the above listed number.

Dated this the 13th
day of May, 2019.

Carie Shealy, MMC, City Clerk

Legislation Details (With Text)

File #:	19-241	**Version:**	1	**Name:**	Paragon Plastics, Inc., n/k/a Trout Enterprise, Inc. AVT Revocation
Type:	Ordinance			**Status:**	Public Hearing
File created:	5/10/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	
Title:	Hold second and final public hearing to approve Ordinance No. 07-2019 revoking the economic development ad valorem tax exemption granted to Paragon Plastics, Inc., n/k/a Trout Enterprise, Inc., and re-imposing the ad valorem taxes that were exempted for 2013, 2014, and 2015, and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, who shall reissue tax bills to Paragon for the 2013, 2014, and 2015 tax years, pursuant to the terms set forth in Ordinance No. 07-2019. (Community Services Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Ordinance No. 07-2019 Revoke AVT Exemption Paragon 2014-018 (Ad Valorem Tax Ememptions) Notice of Termination - Incentive Agt - Paragon Executed Economic Incentive Agreement 2011 Proof of Legal Advertisement				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: May 10, 2019
Agenda Date: June 12, 2019
Prepared By: Samia Singleton, Economic Development Specialist
Through: Nancy A. Bunt, Community Services Director
Requested Action:
Hold second and final public hearing to approve an Ordinance revoking the economic development ad valorem tax exemption granted to Paragon Plastics, Inc., n/k/a Trout Enterprise, Inc., and re-imposing the ad valorem taxes that were exempted for 2013, 2014, and 2015, and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, who shall reissue tax bills to Paragon for the 2013, 2014, and 2015 tax years, pursuant to the terms set forth in Ordinance No. 07-2019.

BACKGROUND:

In 2011, Paragon Plastics, Inc. requested an ad valorem tax exemption for the expansion of its business in retail, development, and manufacturing of therapeutic medical products in Cocoa, Florida. On November 8, 2011, the City granted Paragon (under the alias “Project Boat”) an economic development ad valorem tax exemption for a period of six (6) years, subject to the terms

and conditions of Resolution 96-24 (which was subsequently replaced by Resolution 2014-18) and Ordinance 17-2011. Both instruments expressly authorize the City Council to revoke, by ordinance, an economic development ad valorem tax exemption if an applicant fails to comply with any term or condition of the exemption, and additionally authorizes the City Council to re-impose any ad valorem taxes previously exempted. Paragon failed file annual reports for the 2016 and 2017 tax years, and moved its business out of the City of Cocoa in or about January 2017. The failure to file an annual report and the move from the City are material breaches of the conditions specified by Ordinance 17-2011.

Paragon received ad valorem tax exemptions for $524.54 for the 2013 tax year, $1,366.75 for the 2014 tax year, and $1,865.93 for the 2015 tax year.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

Monies collected by the Brevard County Tax Collector as re-imposed taxes shall be deposited in the City's General Fund.

PREVIOUS ACTION:

On November 8, 2011, the City granted Paragon (under the alias "Project Boat") an economic development ad valorem tax exemption for a period of six (6) years subject to the terms and conditions of Resolution 96-24 (subsequently replaced by Resolution 2014-18) and Ordinance 17-2011.

On May 8, 2019, approved the first reading of Ordinance No. 07-2019 revoking the economic development ad valorem tax exemption previously granted to Paragon Plastics, Inc., n/k/a Trout Enterprise, Inc.

RECOMMENDED MOTION:

Hold second and final public hearing to approve an Ordinance revoking the economic development ad valorem tax exemption granted to Paragon Plastics, Inc., n/k/a Trout Enterprise, Inc., and re-imposing the ad valorem taxes that were exempted for 2013, 2014, and 2015, and authorize the City Clerk to send a certified copy of the Ordinance to the Brevard County Property Appraiser, who shall reissue tax bills to Paragon for the 2013, 2014, and 2015 tax years, pursuant to the terms set forth in Ordinance No. 07-2019.

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ORDINANCE NO. 07-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO PARAGON PLASTICS, INC. ORIGINALLY AUTHORIZED BY ORDINANCE 17-2011; REIMPOSING THE AD VALOREM TAXES EXEMPTED FOR 2016 PURSUANT TO ORDINANCE 17-2011 TO THE EXTENT ALLOWED BY LAW; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City is granted the authority, under • 2(b), Art. VIII of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the Citizens of the City of Cocoa voted to provide economic incentives to new and expanding businesses in the November 8, 1995 general election and again during the 2005 and 2015 general elections; and

WHEREAS, in 2011, Paragon Plastics, Inc., n/k/a Trout Enterprise, Inc. ("Paragon") requested that the City exempt ad valorem taxes for its new warehouse expansion and equipment to be located in the City; and

WHEREAS, the City adopted Ordinance 17-2011 by which it granted Paragon (under the alias "Project Boat") an economic development ad valorem tax exemption for a period of six (6) years, subject to the terms and conditions of Resolution 96-24 (which was subsequently replaced by Resolution 2014-18); and

WHEREAS, Resolution 2014-18 and Ordinance 17-2011 expressly authorize the City Council to revoke, by ordinance, any economic ad valorem tax exemption if an applicant fails to comply with any term or condition of the exemption, and additionally authorize the City Council to reimpose any ad valorem taxes previously exempted; and

WHEREAS, Paragon has received the following exemptions pursuant to the Ordinance:

Tax Year	Amount
2013	$524.54
2014	$1,366.75
2015	$1,865.93

WHEREAS, Paragon moved its business out of the City in or about January 2017, thereby

not satisfying the conditions specified by Ordinance 17-2011; and

WHEREAS, the City desires to expressly revoke the economic development ad valorem tax exemption granted to Paragon, and additionally desires to reimpose the ad valorem taxes that were exempted for the 2013, 2014, and 2015 tax years to the extent allowed by law, due to Paragon's breach of the specified conditions; and

WHEREAS, the City Council of the City of Cocoa, Florida, hereby finds this ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Cocoa.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COCOA HEREBY ORDAINS, AS FOLLOWS:

Section 1. **Recitals.** The foregoing recitals are hereby fully incorporated herein by reference as legislative findings of the City Council of the City of Cocoa.

Section 2. **Repeal of Economic Ad Valorem Tax Exemption.** The City Council of the City of Cocoa hereby repeals the economic development ad valorem tax exemption granted to Paragon Plastics, Inc. pursuant to Ordinance 17-2011 for the years 2013, 2014, and 2015.

Section 3. **Reimposing the Ad Valorem Taxes Exempted.** The City Council of the City of Cocoa hereby reimposes the economic development ad valorem tax previously exempted in the amounts of $524.54 for 2013, $1,366.75 for 2014, and $1,865.93 for 2015 to the extent allowed by law, received by Paragon Plastics, Inc. pursuant to Ordinance 17-2011.

Section 4. **Notice Provided to Brevard County Property Appraiser.** Upon adoption of this Ordinance by the City Council, the City Clerk shall send a certified copy of this Ordinance to the Brevard County Property Appraiser, who shall reissue a tax bill to Paragon for the 2013, 2014, and 2015 tax years, pursuant to the terms set forth herein, which shall be due and owing to the City.

Section 5. **Repeal of Prior Inconsistent Ordinances and Resolutions.** All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 6. **Not Incorporated into Code.** This Ordinance shall not be incorporated into the Cocoa City Code.

Section 7. **Severability.** If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 8. **Effective Date.** This Ordinance shall become effective immediately upon adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the _____ day of _____, 2019.

_____
JAKE WILLIAMS, JR., Mayor

ATTEST:

_____
CARIE SHEALY, MMC
City Clerk

First Reading: _____
Legal Ad Published: _____
Effective Date: _____

RESOLUTION NO. 2014-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; UPDATING CITY PROCEDURES FOR GRANTING ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTIONS IN FURTHERANCE OF THE AUTHORITY GRANTED TO THE CITY COUNCIL BY THE CITIZENS OF COCOA THROUGH THE SUCCESSFUL PASSAGE OF A DULY HELD REFERENDUM ON NOVEMBER 8, 1995 AND EXTENDED ON NOVEMBER 8, 2005; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, Pursuant to Section 3, Article VII of the Florida Constitution, a duly authorized referendum election was conducted on November 8, 1995 whereby the citizens of Cocoa, by majority vote, authorized the City Council of the City of Cocoa to grant economic development ad valorem tax exemptions to new businesses and expansions of existing businesses; and

WHEREAS, on May 28, 1996, the City Council adopted Resolution No. 96-24, known as the "Economic Development Ad Valorem Tax Exemption Resolution of the City of Cocoa, Florida," which established the application and review requirements and procedures necessary to apply for and receive an ad valorem tax exemption; and

WHEREAS, a duly authorized referendum ballot was also held on November 8, 2005 whereby the City Council's authority to grant ad valorem tax exemptions was renewed for an additional ten (10) year period pursuant to the majority vote of the citizens of Cocoa; and

WHEREAS, the City Council desires to continue to utilize the authority to offer and grant such property tax exemptions for purposes of supporting economic growth within the City by providing an incentive for employment opportunities that will lead to the improvement of the quality of life of the residents of Cocoa and the positive expansion of the local economy; and

WHEREAS, the City Council finds it is in the best interest of the public health, safety, and welfare to adopt an updated Economic Development Ad Valorem Tax Exemption Resolution of the City of Cocoa, Florida as set forth herein in order to more efficiently process applications and grant economic development ad valorem tax exemptions when warranted.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The foregoing recitals are deemed true and correct and are hereby fully incorporated herein by this reference.

SECTION 2. Adoption of Updated Procedures. The City Council of the City of Cocoa hereby repeals City Resolution No. 96-24 in its entirety and hereby adopts updated procedures for granting ad valorem tax exemptions as follows:

Economic Development Ad Valorem Tax Exemption Resolution

of the City of Cocoa, Florida

Section 1. Short title. This resolution shall be known as the "Economic Development Ad Valorem Tax Exemption Resolution of the City of Cocoa, Florida."

Section 2. Authority. The City Council is authorized and empowered to enact this Resolution pursuant to Article VII, Section 3, of the Constitution of the State of Florida and Section 196.1995, Florida Statutes, and in furtherance of the powers granted by the City of Cocoa electorate by referendums duly held on November 8, 1995, and November 8, 2005.

Section 3. **Intent and purpose.** It is the intent and purpose of the City Council of the City of Cocoa ("Council") in enacting this resolution to facilitate and foster the following:

(a) Provide an incentive to those new or expanding businesses which make a positive contribution to the economy of the City of Cocoa in terms of new jobs created and improvements to real and personal property;

(b) Promote the economy by creating jobs in the City of Cocoa in such a manner so as to not disadvantage existing businesses while recognizing that productive competition assists economic growth;

(c) Enhance the quality of life for the residents of the City of Cocoa by attracting new businesses or fostering expansion of existing businesses;

(d) Provide incentives to eligible businesses (as provided in Chapter 196, Florida Statutes) of diverse industries having a positive impact on the economy of the City of Cocoa;

(e) Promote the public purpose of enhancing economic growth in the City of Cocoa so as to benefit the City's corporate and residential citizens;

(f) Provide a rational, nonarbitrary, nondiscriminatory basis by which the Council may grant or deny economic development ad valorem tax exemptions, pursuant to the economic development goals of the City of Cocoa; and

(g) Grant economic development ad valorem tax exemptions in accordance with the factors and requirements of this resolution and to consider any other factors which could result in economic growth within the City of Cocoa.

Section 4. **Discretion of Council.** The Council shall have the sole and absolute authority and discretion, as provided by applicable laws, ordinances and policies, to grant or deny economic development ad valorem tax exemptions under this Resolution. The Council reserves the right to vary ad valorem tax exemptions for certain target industries and businesses deemed vital for the future economic development of the City.

Section 5. **Eligible Businesses.** Only the following businesses are eligible for an economic development ad valorem tax exemption under this Resolution pursuant to Chapter 196, Florida Statutes:

A. **New Business**. Shall mean:

1. A business or organization establishing 10 or more new jobs to employ 10 or more full-time employees in the City of Cocoa, paying an average wage for such new jobs that is above the average wage in the Cocoa area, which principally engages in any one or more of the following operations:

a. Manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant; or

b. Is a target industry business as defined by section 288.106(2)(q), Florida Statutes, as may be amended;

2. A business or organization establishing 25 or more new jobs to employ 25 or more full-time employees in the City of Cocoa, the sales factor of which, as defined by s. 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; or

3. An office space in the City of Cocoa owned and used by a business or organization newly domiciled in the City of Cocoa; provided such office space houses 50 or more full-time employees of such business or organization; provided_that such business or office first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business.

4. A business or organization that is situated on property annexed into the City of Cocoa and that, at the time of annexation, is receiving an economic development ad valorem tax exemption from the county under section 196.1995, Florida Statutes; or

5. Any business or organization located in an enterprise zone or brownfield area that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business or organization.

B. **Expansion of an existing business.** Shall mean:

1. A business or organization establishing 10 or more new jobs to employ 10 or more full-time employees in the City of Cocoa, paying an average wage for such new jobs that is above the average wage in the Cocoa area, which principally engages in any one or more of the following operations: (i) which manufactures, processes compounds, fabricates, or produces for sale items of tangible property at a fixed location, and which comprises an industrial or manufacturing plant; or is a target industry business as defined by section 288.106(2)(q), Florida Statutes.

2. A business or organization establishing 25 or more new jobs to employ 25 or more full-time employees in the City of Cocoa, the sales factor of which, as defined by section 220.15(5), Florida Statutes, for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the

exemption is claimed; provided that such business increases operations on a site located in the City of Cocoa, or both collocated with a commercial or industrial operation owned by the same business or organization or under common control with the same business or organization, resulting in a net increase in employment of not less than 10 percent or an increase in productive output or sales of not less than 10 percent.

3. Any business or organization located in an enterprise zone or brownfield area that increases operations on a site located within the same zone or area collocated with a commercial or industrial operation owned by the same business or organization under common control with the same business or organization.

Section 6. Definitions. The following words or phrases shall have the meanings ascribed to them, unless the context clearly indicates otherwise:

A. Applicant. Means any person, firm, partnership, corporation, or other business entity or organization who files an application with the Council seeking an economic development ad valorem tax exemption.

B. Brownfield Area. Means an area designated as a brownfield pursuant to section 376.79(4), Florida Statutes.

C. Council. Means the City Council of the City of Cocoa, Florida.

D. Enterprise Zone. Means an area designated as an enterprise zone pursuant to Section 290.0065, Florida Statutes.

E. HUBZone. Means an area designated as a historically underutilized business zone pursuant to CFR 13.126.

F. **Improvements.** Means physical changes to real property, such as buildings, structures and infrastructure, that are subject to ad valorem taxes.

G. **Sales Factor.** Generally means a fraction of which the numerator is the total sales of the taxpayer in the State of Florida during the taxable year or period and the denominator is the total sales of the taxpayer everywhere during the taxable year or period, pursuant to Section 220.15(5), Florida Statues.

Section 7. Exemption Established and General Guidelines.

A. **Established.** There is hereby established an economic development ad valorem tax exemption. The exemption is a local, optional tax incentive for new and expanding businesses which may be granted or denied at the sole discretion of the Council.

B. **Effective date.** The exemptions shall not accrue on improvements to real property made by or for the use of new or expanding businesses when such improvements have been on the tax rolls prior to the effective date of this Resolution or when such improvements have been made or have commenced being made prior to the effective date of this resolution.

C. **Maximum exemption.** Consistent with section 196.1995, Florida Statutes, exemptions from ad valorem taxation may be granted for up to one hundred percent (100%) of the assessed value of all improvements to real property made by or for the use of a new business of all tangible personal property of such new business, or up to one hundred percent (100%) of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in

all tangible personal property acquired to facilitate such expansion of an existing business. However, in exercising its discretion to award an ad valorem tax exemption under this Resolution, the City Council will be guided by the City of Cocoa Ad Valorem Tax Exemption Scoring Sheet, attached hereto as **Exhibit "A,"** and fully incorporated herein by this reference. The Council may approve up to the maximum percentage and length of exemption stated on the Scoring Sheet by majority vote. However, the Council may award an exemption greater than the maximum percentage or duration by super-majority vote of the entire governing body.

D. Replacement of Property. Property acquired to replace existing property shall not be considered to facilitate a business expansion and therefore, such replacement property shall not be exempt from ad valorem taxation.

E. Time period. Any such exemption granted under this Resolution shall remain in effect for up to ten (10) years from the date of adoption of the ordinance granting the exemption. The time period of the exemption shall be determined at the sole discretion of the Council, and nothing herein shall be construed as requiring the Council to grant an exemption for the ten (10) year maximum time period.

F. Land not exempt. No ad valorem tax exemption shall be granted for the land upon which new or expanding businesses are to be located. The sole intent of this Resolution being to exempt from ad valorem taxation only certain improvement to real property and tangible personal property of new expanding businesses.

G. Applicable taxes. The exemption shall apply only to taxes levied by the City of Cocoa. The exemption shall not apply to taxes levied by the United States, Brevard County, school district, water management district or any other taxing district, or

to taxes levied for the payment of bonds or taxes authorized by a vote of the electors pursuant to Section 9 and Section 12, Article VII of the Florida Constitution.

H. **Grant by ordinance.** Any exemption granted under this Resolution shall be by a duly adopted ordinance of the City Council.

Section 8. **Application.** Any applicant desiring an economic development ad valorem tax exemption shall, on or before March 1 of the year in which the exemption is requested, file with the City Council, or its designee, Form DR-418 prescribed by the Florida Department of Revenue, or any amendment or replacements thereto, and any Supplemental Form prescribed by the City (together referred to as "Application"). The application shall request that the Council adopt an ordinance granting the applicant an exemption pursuant to this resolution and shall include the following information:

(a) The name and location of the new business or the expansion of an existing business;

(b) A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of such improvements;

(c) A description of the tangible personal property for which an exemption is requested and the dates when such property was or is to be purchased;

(d) Proof, to the satisfaction of the Council that the applicant is a new business or an expansion of an existing business as defined in Section 5 of this resolution.

(e) The number of jobs the applicant expects to create along with the average wage of the jobs and whether the jobs are full-time or part-time;

(f) The expected time schedule for job creation; and the following information:

(1) The expected numbers of employees of the business who will reside in the City of Cocoa;

(2) The average wage of employees of the business;

(3) The type of industry or business;

(4) The environmental impact of the business;

(5) The anticipated volume of business or production;

(6) Whether relocation or expansion of the business would occur without the exemption;

(7) Whether the business is/or will be located within an enterprise zone, brownfield, HUBZone, or redevelopment area;

Section 9. **Application Process.** Upon receipt of an application for economic development ad valorem tax exemption, the application shall be reviewed in the following manner:

(A) **Prescreening & preliminary analysis.** The Community Services Director, or designee, shall review the application to determine if it has satisfied all the requirements of Section 8 herein and is otherwise complete for processing purposes. Incomplete applications will not be processed.

(B) **Staff Recommendation.** Once an application is deemed complete, the Community Services Director shall review the application, prepare the scoring sheet and

conduct an economic impact analysis based on all supporting documents submitted by the applicant. In addition, the Community Services Director shall prepare a written recommendation to the City Council in the form of an agenda item that will be presented to the Council at a duly held public meeting. The recommendation shall also address the factors set forth in subparagraph (C) below which Council is required to take into account.

(C) Preliminary review and adoption of Resolution by Council. Upon receipt of the Community Services Recommendation, the City Council shall conduct a preliminary review of the application and recommendation for the dual purpose of determining whether the applicant is eligible for an exemption and whether the application merits being forwarded to the Brevard County Property Appraiser for review. If Council determines that the application should be forwarded to the Property Appraiser, Council shall adopt a resolution certifying that the application is eligible for an exemption and authorize the Community Services Director to retain a copy of the application for the City and to forward the Resolution and the original application to the Property Appraiser.

In considering the application, the City Council will also take into account the following:

(1) The total number of net new jobs to be created by the applicant;

(2) The average wage of the new jobs;

(3) The type of business or operation and whether it qualifies as a target industry as may be identified from time to time by the City Council;

(4) The environmental impact of the proposed business or operation;

(5) The extent to which the applicant intends to source its supplies and materials within the City of Cocoa and Brevard County; and

(6) Any other economic-related characteristics or criteria deemed necessary by the City Council including, but not limited to, the recommendation of the Community Services Director and staff as stated in the required agenda item.

(D) **First Reading of Ordinance by Council.** At the same meeting during its preliminary review of the application, the Council may also conduct first reading of an ordinance for the approval of the ad valorem tax abatement if Council determines that the application merits being forwarded to the Property Appraiser for review. The ordinance shall meet the requirements set forth in section 196.1995(11), Florida Statutes. If the Council elects not to conduct first reading of the ordinance and not send the application to the Property Appraiser, the application shall be deemed rejected unless otherwise decided by the Council. If Council elects to conduct first reading of an ordinance and forward the application to the Property Appraiser, first reading shall only be considered a preliminary decision on the application by Council and under no circumstances shall said decision be construed as final or a guarantee that the tax abatement will ultimately be granted. After the City receives a report on the application from the Property Appraiser, the ordinance approved on first reading may be subject to modification or withdrawal at the City Council's discretion.

(E) **Property Appraiser review.** Upon receipt and careful review of the original application, the Property Appraiser shall report the following information to the Council:

(1) The total revenue available to the City for the current fiscal year from ad valorem tax sources, or an estimate of such revenue if the actual total revenue available cannot be determined;

(2) Any revenue lost to the City for the current fiscal year by virtue of exemptions previously granted, or an estimate of such revenue if the actual revenue lost cannot be determined;

(3) An estimate of the revenue which would be lost to the City during the current fiscal year if the exemption applied for were granted had the property for which the exemption is requested otherwise been subject to taxation; and

(4) A determination as to whether the property for which an exemption is requested is to be incorporated into a new business of the expansion of an existing business, or into neither, which determination the Property Appraiser shall also affix to the face of the application.

(F) **Final Review/adoption by Council.** Upon receipt of the Property Appraiser's report, the Community Services Director shall schedule the application and/or ordinance for second reading during the next available Council meeting. At that meeting the Council shall consider the application, economic impact analysis, recommendation and analysis of the Community Services Director, the Property Appraiser's report, and the factors stated in subparagraph (C) above, to determine whether or not to adopt an ordinance granting an economic development ad valorem tax exemption to the applicant. The ordinance, if adopted, shall be adopted in the same

manner as any other ordinance of the City and shall include, at a minimum, the following:

(1) The name and address of the new business or expansion of an existing business to which the exemption is granted;

(2) The total amount of revenue available to the City from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the City for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect, and the estimated revenue loss to the City for the current fiscal year attributable to the exemption of the business named in the ordinance;

(3) The period of time for which the exemption will remain in effect and the expiration date of the exemption;

(4) A finding that the business meetings the definition of a new business or expansion of an existing business as set forth in Section 5 of this resolution; and

(5) A statement that the exemption is subject to the terms and conditions of this resolution and/or other terms and conditions required by Council.

(G) Economic Development Incentive Agreement. Any applicant receiving an ad valorem tax exemption pursuant to this Resolution shall be required to enter into an Economic Development Incentive Agreement with the City on a form acceptable to the City Attorney, which shall outline the parameters for which the business is scheduled to perform, the conditions to maintain eligibility, termination, and reporting requirements. Any such agreement shall be considered for approval by the Council concurrently with the Council's consideration of adoption of the ordinance granting the ad valorem tax exemption.

Section 10. **Precedent non-binding.** Applications for exemptions shall be considered by the Council on a case-by-case basis, after consideration by Council of the recommendations of the Community Services Director and the Property Appraisers report. No precedent shall be implied or inferred by the granting or denial of an exemption pursuant this Resolution.

Section 11. **All Exemption Granted are Conditional.** All exemptions granted pursuant to this Resolution shall be conditions upon the applicant maintaining the new business or the expansion of an existing business, as defined in Section 5 of this Resolution, for the duration of time in which the exemption was granted. In addition, the application is conditioned upon the Applicant submitting an annual report to the Council evidencing the satisfaction of this condition. The report shall be on a form proscribed by the City. The report shall be received by the Council no later than January 31 of each year. The applicant shall also submit any other information or reports as the Council deems reasonably necessary for purposes of determining whether the applicant is complying with the terms, conditions, and intent and purpose of this resolution, the terms and conditions of the ordinance granting the exemption, and any representations made in the application process.

Section 12. **Revocation of Exemption/Recovery of Funds.** The Council reserves the right to revoke by ordinance any economic development ad valorem tax exemption granted pursuant to this resolution if an applicant fails to comply with any term of condition set forth in this Resolution or the ordinance granting the exemption. If an exemption is revoked, the Council may recover any ad valorem taxes previously exempted under this Resolution including, but not limited to, re-imposing the ad valorem

taxes and placing them on the annual tax assessment roles. In addition, the City shall have the right to recover any and all costs and damages (including reasonable attorney fees) incurred in recovering ad valorem taxes from the applicant.

SECTION 3. **Repeal of Prior Inconsistent Resolutions.** All prior resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 4. **Severability.** Should any section or provision of this resolution, or any portion hereof, any paragraph, sentence, or word be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereto as a whole or part thereof to be declared invalid.

SECTION 5. **Effective Date.** This resolution shall become effective immediately upon adoption by the City Council of the City of Cocoa, Florida.

RESOLVED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the 11th day of February, 2014.

Henry U. Parrish, III, Mayor

ATTEST:

Joan Clark, City Clerk

City of
Cocoa, Florida
Community Services Department
Office of Economic Development
65 Stone Street, Cocoa, Florida 32922
PHONE (321) 433-8525 FAX (321) 433-8526
Website: www.cocoafl.org

City of Cocoa Ad Valorem Tax Exemption
Scoring Sheet

Business Name: _____

Number of New Employees	Points	Existing Business Expansion Option
10-20	3	25% Increase in Employees
21-60	6	50% Increase in Employees
61-99	9	75% Increase in Employees
100 and up	10	100% Increase in Employees

Average Annual Wage	Points
Below Average	0
Average ($33,411)*	4
25% Above Average ($41,764)	7
50% Above Average ($50,117)	9
100% Above Average ($66,822)	10

Capital Investment	Points
$ 250,000 - $ 1,000,000	1
$ 1,000,000 - $ 4,000,000	2
$ 4,000,000 - $ 7,000,000	3
$ 7,000,000 - $10,000,000	4
$10,000,000 and up	5

Special District	Points
Enterprise Zone, Brownfield, HUBZone	1

Total Points** ☐

Certified By: _____ _____
City Staff Member Date

* The Average Annual Wage is determined by the average wage of the city of Cocoa. This figure shall be updated at the beginning of each calendar year using a reliable source, or as provided by the U.S. Census.

Rev. November 19, 2013

Program Guidelines

Total Points	Percentage of Exemption by Year	Length of Exemption
11 - 13 points**	Years 1 through 3: 60% Year 4: 50% Year 5: 40% Year 6: 30%	6 years
14 - 16	Years 1 through 4: 70% Year 5: 60% Year 6: 50% Year 7: 40%	7 years
17 - 19	Years 1 through 5: 80% Year 6: 70% Year 7: 60% Year 8: 50%	8 years
20 - 22	Years 1 through 5: 80% Year 6: 70% Year 7: 60% Year 8: 50% Year 9: 40%	9 years
23 - 25	Years 1 through 5: 80% Year 6: 70% Year 7: 60% Year 8: 50% Year 9: 40% Year 10: 30%	10 years

** Minimum of 11 points required to qualify for exemption.

The City of Cocoa City Council may consider individual or company documentation indicating that the business will be critical to attracting other key businesses in the industry cluster and/or providing benefits exceeding the norm. In those incidences program guidelines may be adjusted on a case-by-case basis.

The City Council reserves the right to vary the ad valorem incentives for certain target industries and businesses deemed critical for the future economic development of the City. In addition, for such targeted industries and businesses, the City Council may consider other economic incentives, such as an ad valorem reimbursement grant incentive, in accordance with the City's home rule and statutory economic development powers. Ad Valorem Abatement or reimbursement grants for such target industries and businesses will be derived on a negotiated schedule and may include such factors as occupied existing business space, development of new business space, capital improvements made, number of jobs created, annual wages, number of relocated jobs, and number of local residents hired.

Trout Enterprise, Inc.
f/k/a Paragon Plastics, Inc.
Attn. David Trout
283 Leather Fern Lane
Merritt Island, Florida 32953

NOTICE OF TERMINATION OF ECONOMIC INCENTIVE AGREEMENT

Notice is given this _____ day of April, 2019 to Trout Enterprise, Inc., f/k/a Paragon Plastics, Inc. ("Paragon"):

A. On November 8, 2011, the City of Cocoa, Florida ("City") adopted Ordinance No. 17-2011, pursuant to which Paragon (under the alias "Project Boat") was granted an ad valorem tax exemption for a term of six (6) years for its new warehouse expansion and equipment in the City.

B. On November 9, 2011, Paragon entered into an Economic Incentive Agreement with the City, which set forth the terms and conditions of the economic incentive granted to Paragon. The term of the Agreement runs from the date of execution until one (1) year after Paragon receives the full benefit of the ad valorem tax exemption.

C. Paragon granted the following exemptions:

Tax Year	Amount
2013	$524.54
2014	$1,366.75
2015	$1,865.93

D. Pursuant to the Agreement, Paragon is required to submit annual reports no later than January 31st of each year (Section 4). Further, as a material condition to receiving the economic incentive, Paragon agreed to maintain its existing business operations within the jurisdictional boundaries of the City of Cocoa for the term of the Agreement (Section 2(b)).

E. Paragon has breached the terms of the Agreement by (i) failing to file annual reports for 2016 and 2017 and (ii) moving its business out of the City in or around January 2017.

In accordance with Section 8(d) of the Agreement, the City hereby notifies Paragon that it must cure the above-described material breaches within fifteen (15) days of receipt of this Notice.

Should Paragon fail to cure the breaches within the fifteen (15) day time period, then, pursuant to Section 8(e), the Agreement will be terminated and the economic development incentives thereby granted will be revoked. Further, Paragon shall reimburse the City the $3,757.22 in exempted ad valorem taxes within thirty (30) days of receipt of this Notice.

CITY OF COCOA, FLORIDA

BY: _____
John Titkanich, Jr. AICP, ICMA-CM, City Manager

DATED: 4-23-2019

ECONOMIC INCENTIVE AGREEMENT

THIS ECONOMIC INCENTIVE AGREEMENT ("Agreement") is made and entered into this 9th day of November, 2011, by and between the **CITY OF COCOA, FLORIDA,** a Florida municipal corporation ("City"), and **PROJECT BOAT,** a Florida corporation ("PROJECT BOAT").

RECITALS:

WHEREAS, PROJECT BOAT is a custom plastic thermoforming manufacturer; and

WHEREAS, PROJECT BOAT has been located in the City of Cocoa since 1998, currently employs twenty-two employees, occupies 25,000 square feet of manufacturing and warehouse space, and leases an additional 3,000 square feet of space to accommodate work overflow; and

WHEREAS, PROJECT BOAT produces products such as manhole inflow dishes, medical bed components, air conditioning condenser covers and missile supports for the aerospace, industrial and medical fields; and

WHEREAS, in order to meet increased customer demands, PROJECT BOAT plans to expand its existing warehouse facility in Cocoa by an additional 9,500 square feet; and

WHEREAS, PROJECT BOAT intends to add 10 new jobs to the payroll and to pay an average wage of $36,489.68; and

WHEREAS, PROJECT BOAT provides health insurance benefits to its employees and will be offering retirement benefits in the near future; and

WHEREAS, PROJECT BOAT will demonstrate a fixed capital investment of at least $500,000.00 in renovations and new construction, and at least $100,000.00 in tangible personal property; and

WHEREAS, the City desires to provide PROJECT BOAT certain economic incentives in furtherance of the municipal purpose of expanding economic activity within its jurisdictional borders consistent with section 166.021(9), Florida Statutes; and

WHEREAS, the parties recognize this Agreement is necessary to ensure that the economic incentives provided by the City to PROJECT BOAT ultimately serve their intended municipal purpose; and

WHEREAS, the City has established terms and conditions herein whereby PROJECT BOAT, by complying with these terms and conditions, can receive the benefits outlined in this Agreement, while the City can fulfill its desire to support local employers, to create jobs and to significantly enhance the prospects of local economic development; and

WHEREAS, the parties agree that the economic incentives provided by the City hereunder are for the benefit of the public health, safety, welfare, and convenience of the citizens of the City of Cocoa; and

WHEREAS, the City Council finds and declares that this Agreement serves a public purpose, which includes promotion of economic development, job growth, and the future expansion of the City's tax base.

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

2. **Commitments by PROJECT BOAT.**

(a) *Expansion of Facilities; Capital Investment.* PROJECT BOAT hereby represents and warrants that it intends to expand its existing warehouse facilities located within the jurisdictional boundaries of the City of Cocoa. In furtherance of said expansion, PROJECT BOAT agrees to make a fixed capital investment of not less than $500,000.00 in renovations and new construction, and not less than $100,000.00 in tangible personal property, within three (3) years of the effective date of this Agreement.

(b) *Business Operations in Cocoa.* PROJECT BOAT agrees, upon completion of construction and issuance by the City of a certificate of occupancy for PROJECT BOAT's expanded facilities, to maintain business operations within the jurisdictional boundaries of the City of Cocoa for the term of this Agreement.

(c) *Employees.* PROJECT BOAT agrees that it shall increase the number of persons under its employ by at least ten (10) over the three (3) years immediately following the completion of the expansion of its existing facilities, and that the average annual salary of its employees shall be at least $36,489.68.

(d) *Expansion of an Existing Business.* PROJECT BOAT represents and warrants that, for purposes of receiving the economic incentives provided to PROJECT BOAT by this Agreement, PROJECT BOAT currently meets the definition of "expansion of an existing business," as that term is defined by section 196.012(16), Florida Statutes. PROJECT BOAT agrees to maintain its qualifications as an "expansion of an existing business" during the entire term of this Agreement.

3. **Ad Valorem Tax Exemption.** The parties acknowledge that in accordance with Ordinance No. 23-2005, the electorate of the City of Cocoa has granted the City Council the authority to grant property tax exemptions for new businesses and expansions of existing businesses. The parties further acknowledge that PROJECT BOAT's anticipated investment to real property and tangible personal property pursuant to the terms of this Agreement, and the

City Council's determination that PROJECT BOAT's continued operations in the City of Cocoa are critical for the future economic development of the City, render PROJECT BOAT eligible for an ad valorem tax exemption. PROJECT BOAT has filed an application for ad valorem tax exemption with the City, and the City has processed the application in good faith and in accordance with the requirements established by the City and under Florida law. Conditioned upon PROJECT BOAT's continuing obligation to comply with the terms and conditions set forth in this Agreement, the City Council approved Ordinance No. 17-2011 on November 8, 2011, granting PROJECT BOAT an ad valorem tax exemption for a term of six (6) years, commencing with the first year the new improvements and personal property are added to the assessment roll, and lasting five (5) years thereafter, for sixty percent (60%) of the City's ad valorem taxes.

4. **Annual Reports.** PROJECT BOAT shall submit to the City an annual report on a form proscribed by the City, along with any necessary supporting documentation, providing evidence of continued compliance with the terms of this Agreement, and shall specifically provide evidence of continued compliance with the definition of "expansion of an existing business" as set forth in section 196.012(16), Florida Statutes, for each of the six (6) years PROJECT BOAT receives the ad valorem tax exemption. The annual report shall be provided to the City no later than January 31 of each year. PROJECT BOAT shall also submit any other information or reports as the City Manager or City Council may deem reasonably necessary for purposes of determining whether PROJECT BOAT is complying with the terms and conditions of this Agreement.

5. **Compliance with Laws.** PROJECT BOAT shall be responsible for complying with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority regarding the location and continued operation of its business within the City of Cocoa.

6. **Work is a Private Undertaking.** With regard to PROJECT BOAT's business operation and compliance with applicable laws, rules, and regulations, it is specifically understood and agreed to by and between the parties hereto that the contractual relationship between the City and PROJECT BOAT is such that the PROJECT BOAT is an independent contractor and not an agent of the City, and that this is not a business partnership or joint venture agreement. PROJECT BOAT and its contractors, partners, agents, and employees are independent contractors and not employees of the City, and PROJECT BOAT shall be in complete control over its business operations. Nothing in this Agreement shall be interpreted to establish any relationship other than that of an independent contractor, between the City and PROJECT BOAT, its contractors, partners, employees, or agents, under this Agreement.

7. **Compliance Monitoring.** PROJECT BOAT agrees that City control and monitoring of the economic incentives granted hereunder is necessary to insure that PROJECT BOAT's implementation of its obligations to the City set forth in this Agreement are in furtherance of the municipal purposes declared by the City herein.

8. **Term; Termination; Remedies.**

(a) *Term.* This Agreement shall become effective upon full execution by both parties hereto and shall terminate one (1) year after PROJECT BOAT has received the full

benefit of the ad valorem tax exemption granted pursuant to Section 3 herein, unless the Agreement is terminated pursuant to this Section.

(b) *Termination by City.* The City shall have the right to terminate this Agreement upon any material breach of any term or condition of this Agreement by PROJECT BOAT; if PROJECT BOAT is declared bankrupt or insolvent; if PROJECT BOAT adopts a plan or resolution of liquidation of PROJECT BOAT or substantially sells all of its assets; if PROJECT BOAT engages in fraud or misleading compliance reporting against the City; or if a receiver or trustee is appointed on behalf of PROJECT BOAT for purposes of taking control of substantially all of PROJECT BOAT's assets within the City of Cocoa, or the said assets are judicially seized for any reason, and possession of said assets are not released to PROJECT BOAT within ninety (90) days.

(c) *Termination by PROJECT BOAT.* PROJECT BOAT may terminate this Agreement in the event of a material breach of any provision of this Agreement by the City, which shall include, but not be limited to, failing to fulfill any of its legal obligations under Section 3, herein.

(d) *Notice; Opportunity to Cure.* Prior to exercising its right to terminate this Agreement, the terminating party shall provide written notice to the non-terminating party setting forth the reason for termination and providing the non-terminating party 15 days from receipt of the notice to cure the alleged breach. If the alleged breach is not cured within said time period, this Agreement shall be deemed terminated, except with respect to any provision that affords a remedy in the event of a breach and any provision that expressly survives termination.

(e) *Remedies.* In the event of PROJECT BOAT's breach of this Agreement, the City shall have the right to revoke the economic development incentives and to re-impose, in full, the ad valorem taxes waived pursuant to Section 3 herein, plus interest accrued at the maximum rate allowed by law. The City shall notify PROJECT BOAT in writing regarding the revocation of the economic development incentives and such notice shall set forth the total sum due and owing to the City. PROJECT BOAT shall reimburse the City within 30 days from PROJECT BOAT's receipt of the City's notice unless PROJECT BOAT cures the breach within 15 days of receiving the notice. Should PROJECT BOAT fail to reimburse the City within 30 days, the City shall be entitled to recover the taxes due and owing to the City. Further, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in collecting said taxes through all appellate proceedings. Moreover, the City shall have the right to recover the taxes through any and all available legal means, including, but not limited to, reassessing taxes and assessments on the tax roles of Brevard County, Florida, and bringing an action in a state or federal court.

9. **Severability.** Should any section or any part of any section 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 section or any part of any section in this Agreement.

10. **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 Orlando, Florida for all federal court actions or disputes which arise out of or are based upon this Agreement.

11. **Integration; Modification.** The drafting, execution, and delivery of this Agreement by the parties have not been induced by any 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.

12. **Attorney's Fees.** Unless otherwise provided herein, each party agrees to bear their own attorneys' fees and costs in furtherance of this Agreement.

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

14. **Waiver.** No failure to insist on the prompt performance by PROJECT BOAT 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 PROJECT BOAT'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.

15. **Notices.** All notices required or permitted under this Agreement and any written consents or approvals required hereunder shall be in writing (including telecopy communication) and shall be (as elected by the person giving such notice) hand-delivered by messenger or overnight courier service, telecopied or mailed by registered or certified mail (postage pre-paid), return receipt requested, and addressed to each party at their respective addresses as set forth below or to such other addresses any party may designate by notice complying with the terms of this Section:

To CITY:	w/copy to:
Dr. Brenda Fettrow Cocoa Acting City Manager 65 Stone Street Cocoa, FL 32922	Anthony A. Garganese, City Attorney Brown, Garganese, Weiss & D'Agresta, P.A. P.O. Box 2873 Orlando, FL 32802-2873

To PROJECT BOAT:

PROJECT BOAT
[INSERT STREET ADDRESS]
Cocoa, FL 32922

Such notice, request or other communication shall be considered given and deemed delivered: (a) on the date delivered if by personal delivery or courier service; (b) on the date of transmission with confirmed answer back if by telecopier if transmitted prior to 5:00 p.m. on a business day, and on the next business day if transmitted after 5:00 p.m. or on a non-business day, provided that a copy of the notice is provided within two business days thereafter by one of the other methods permitted by this Section; or (c) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed.

16. **Indemnification and Hold Harmless**. PROJECT BOAT shall indemnify, hold harmless, and defend the City, from and against any and all claims, damages, losses, and expenses including, but not limited to, attorneys' fees, arising out of or resulting from the performance or provision of the terms and conditions of this Agreement, including damage to persons or property, provided that same is caused in whole or part by the error, omission, negligent act, failure to act, malfeasance, misfeasance, conduct, or misconduct of PROJECT BOAT, its agents, servants, officers, officials, employees, or subcontractors.

The obligations arising under this Section 16 shall survive the expiration or termination of this Agreement, as to claims or causes of action, and liabilities, expenses, losses, costs, reasonable attorneys fees, damages, fines and penalties of every kind and character or incurred or suffered by the City as a result thereof, based upon events arising prior to the date of termination of this Agreement.

17. **Assignment.** This Agreement shall not be assigned by PROJECT BOAT without the prior written consent of the City.

18. **No City Obligation for Future Funds.** No provision in this Agreement shall be construed as requiring the City to provide additional economic incentives of any kind, other than as specifically provided herein.

19. **Conflict of Interest.** PROJECT BOAT represents and warrants, and this Agreement is being made by the City in reliance thereon, that PROJECT BOAT and its officers, employees, and agents are neither officers nor employees of the City. Further, that no consideration of any kind is being paid, transferred, or conveyed directly to any City officer or employee, or indirectly to any City officer or employee through some other third party including a relative or legal entity, for the City's commitment to enter into this Agreement.

20. **Representations of PROJECT BOAT.** PROJECT BOAT represents to the City that (i) PROJECT BOAT is an entity organized in the State of Florida and duly authorized to conduct business in Florida; (ii) PROJECT BOAT has the authority to enter into this Agreement

and to perform the requirements of this Agreement; (iii) to PROJECT BOAT's best knowledge, PROJECT BOAT's performance under this Agreement shall not violate any applicable judgment, order, law, or regulation; (iv) to PROJECT BOAT's best knowledge, PROJECT BOAT's performance under this Agreement shall not result in the creation of any claim against the City for money or performance, any lien, charge, encumbrance or security interest upon any asset of the City; (v) PROJECT BOAT shall have sufficient capital to perform its obligations under this Agreement; and (vi) PROJECT BOAT does not require any third party consent to execute, deliver, and perform its obligations under this Agreement unless otherwise stated in this Agreement.

21. **PROJECT BOAT's Continuing Disclosure Requirement.** PROJECT BOAT must promptly notify the City of any developments that materially and adversely impact this Agreement and PROJECT BOAT's obligations stated herein including, but not limited to, compliance with all applicable laws, rules, and regulations pertaining to clean air permits, initiation of any law suits or bankruptcy proceedings, sale or conveyance of real property, labor disputes, and changes in business operations.

22. **No Delegation of Police Power.** PROJECT BOAT shall not pledge the credit of the City nor make the City a guarantor of payment or surety for any contract, debt, or obligation, judgment, lien, or any form of indebtedness. The parties agree that this Agreement does not nor shall it be construed as a delegation of any of the City's authority or police powers to PROJECT BOAT.

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

CITY:

The City of Cocoa, Florida,
a Florida municipal corporation.

Michael Blake, Mayor

Date: 11/8/2011

ATTEST:

Joan Clark, City Clerk

PROJECT BOAT:

PROJECT BOAT,
a Florida corporation.

Print Name: DAVID TROUT
Title: Authorized Representative

Date: 11-9-11

STATE OF Florida)
COUNTY OF Brevard)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared David Trout, Authorized Representative of **PROJECT BOAT**, a Florida Corporation, who is [X] personally known to me or [___] has produced _____ as identification.

Theresa M Olszewski
Notary Public - State of Florida
Theresa M Olszewski
Printed Name
My Commission Expires: 9/11/2015

Notary Public State of Florida
Theresa M Olszewski
My Commission EE129082
Expires 09/11/2015

FLORIDA TODAY
FLORIDATODAY.com
A GANNETT COMPANY

Classified Ad Receipt
(For Info Only - NOT A BILL)

Customer: CITY OF COCOA (TE)

Address: 65 STONE ST
COCOA FL 32922
USA

Ad No.: 0003593613
Pymt Method Invoice
Net Amt: $379.34

Run Times: 1

No. of Affidavits: 1

Run Dates: 06/02/19

Text of Ad:

CITY OF COCOA
NOTICE OF PUBLIC HEARING

June 12, 2019

NOTICE is hereby given that the City of Cocoa, Florida, will hold a Public Hearing at 6:00 p.m. on Wednesday, June 12, 2019, in City Council Chambers, located at 65 Stone Street, in Cocoa, Florida.

The City Council will consider adopting the following Ordinances on Second Reading, titled as follows:

ORDINANCE 03-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO CROSS BRANDS MANUFACTURING, L.L.C. ORIGINALLY AUTHORIZED BY ORDINANCE 11-2016; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

ORDINANCE NO. 05-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO DIAMONDBACK CNC, LLC ORIGINALLY AUTHORIZED BY ORDINANCE 08-2012; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

ORDINANCE NO. 06-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO GENO, LLC ORIGINALLY AUTHORIZED BY ORDINANCE 12-2015; REIMPOSING THE AD VALOREM TAXES EXEMPTED FOR 2016 PURSUANT TO ORDINANCE 12-2015 TO THE EXTENT ALLOWED BY LAW; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

ORDINANCE NO. 07-2019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; REVOKING THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION GIVEN TO PARAGON PLASTICS, INC. ORIGINALLY AUTHORIZED BY ORDINANCE 17-2011; REIMPOSING THE AD VALOREM TAXES EXEMPTED FOR 2016 PURSUANT TO ORDINANCE 17-2011 TO THE EXTENT ALLOWED BY LAW; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

This is a public meeting. All interested parties may attend. The facility wherein the public meeting will be held is accessible to the physically handicapped.

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

Members of the public are encouraged to comment on the proposed ordinances at the meeting. Comments may also be

at the meeting. Comments may also be submitted in writing to the Office of the City Clerk, 65 Stone Street, Cocoa, FL 32922, or by email (cshealy@cocoafl.org), or by telephone by calling (321) 433-8484.

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 (321) 433-8484

Further information may be obtained by calling the City Clerk at the above listed number.

Dated this the 13th
day of May, 2019.

Carie Shealy, MMC, City Clerk

Legislation Details (With Text)

File #:	19-263	**Version:**	1	**Name:**	
Type:	Contract			**Status:**	Public Hearing
File created:	5/30/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	
Title:	Approve a Preliminary and Final Subdivision consistent with Chapter 18 Subdivisions and Appendix A Zoning of the City Code for Adamson Creek Phase 1B subject to conditions identified in the agenda item. (Community Services Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Exhibit A - Adamson Creek Phase 1B final Plat 05-30-19 Location Map - Adamson Creek Phase 1B Legal Ad Proof - Subdiv and Brightline DA				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: May 31, 2019
Agenda Date: June 12, 2019
Prepared By: Dodie Selig, Planning and Zoning Manager
Through: Nancy A. Bunt, Community Services Director
Requested Action:
Approve a Preliminary and Final Subdivision consistent with Chapter 18 Subdivisions and Appendix A Zoning of the City Code for Adamson Creek Phase 1B subject to conditions identified in the agenda item.

BACKGROUND:

This Preliminary Subdivision application for Phase 1B (Exhibit A) is part of a larger project known as Adamson Creek. The project was first developed as a Planned Unit Development (PUD) in 2005 consisting of 431 single-family homes on 178 acres with 44 acres of open space and amenities. The PUD for Phase 1 was approved and recorded in 2006. Due to a slowdown in the market triggered by the recession, Phase 1 was later broken down into 3 phases (1A, 1B and 1C) of which phase 1A was recorded in 2007 with 154 single-family homes.

On October 13, 2015 the City approved a Preliminary Subdivision for Phases 1B and 1C. The site work did not occur within the one-year timeframe for which the application and project approval valid. The property changed hands in April 2016 and again in January 2018 when the present owners, DR Horton, Inc., purchased the property. Unaware that the project approval had lapsed, they commenced construction of the infrastructure based on what they believed to be approved preliminary subdivision plans. This situation came to light when the contractor approached the City

requesting inspections of the site work.

The plans submitted for approval at this time do not contain the customary engineering pages found in a typical preliminary subdivision application. This is in part because the original PUD is still in effect and that approval included all the relevant engineering detail customary to such a project. City staff has inspected and approved the site work completed. Because the site work is already complete, the applicant is requesting approval of the Final Subdivision along with this Preliminary Subdivision application. Therefore, the plans submitted are the final plat pages.

Project Details:
Phase 1B of the project contains 21.02 acres of developable land (streets, houses, stormwater pond and amenities) and 6.29 acres of wetland area and related buffer zone in Tract Q. This phase will include 94 single-family homes on 2 streets wrapping around a stormwater pond Tract D which will be stocked with fish and have a dock/viewing platform at the north end. The platform will be accessible from Tract K which contains a multi-use playing field area along Saxton Road. A sidewalk connection will link the other newly created street (Orsino Lane) with the existing walkway around the wetland in Tract P as well as the stormwater pond in Tract E. Phase 1B will contain 3.47 acres of open space credit towards the minimum 25% required of Phase 1 by virtue of the PUD requirements. It should be noted that unlike Phase 1A, the roads created in Phase 1B will be private roads owned and maintained by the Adamson Creek Home Owner's Association, Inc. with an easement recorded on the plat to the City of Cocoa.

Future Land Use Designation: LDR (Low Density Residential) and Conservation

Zoning District: PUD (Planned Unit Development)

Existing Land Use: Vacant Land

Council District: District 3 - Councilman Don Boisvert

Overview of Surrounding Area:

	Future Land Use Desig	Zoning Districts	Land Uses
North	RES 2 (Brevard County)	AU and RR1 (Brevard County)	Single-Family Residential and Vacant Land
South	Low Density Residential ar (City)	PUD (City)	Single-Family Residential (Adamson Creek Phase 1A)
East	Low Density Residential ar (City)	PUD (City) and GU (Brevard County)	Single-Family Residence and Vacant Land (Adamson Creek Phase 1C)
West	RES 2 and PUB (Brevard (	GML(H) (Brevard County)	Single-Family Residential and Vacant Land (Brevard County Land Fill)

I. Preliminary Subdivision Analysis

Consistency with Code of the City of Cocoa

The submitted preliminary subdivision plans has been reviewed by City staff for consistency with Chapter 18 Subdivisions and with Appendix A Zoning of the City of Cocoa Code and found to be in substantial compliance. The majority of the lots created by this subdivision are 50 feet in width and 120 feet in depth which equates to 6,000 sq.ft. of lot area. Lots on roadway curves are allowed a minimum width of 25 feet, and corner lots are required to be 15% larger than interior lots. This subdivision plat meets these requirements. There is no minimum lot size under PUD zoning. Minimum setbacks and distance separation between structures will be addressed when a building permit is applied for.

Staff is still awaiting comments from the City's flood plan reviewer which may need to be addressed as well as a School Capacity Availability Determination (SCADL) Letter from Brevard County School District. Therefore, Staff has included conditions to its recommendation below that all outstanding review comments will have to be resolved prior to recording of the Final Subdivision Plat.

Concurrency Management/Adequate Public Facilities

Wastewater

The Level of Service {LOS) for wastewater is 319 gallons per day per household, based on the 94 lots, the projected demand on the wastewater system is 29,986 gallons per day.

The Sellers Plant is currently permitted to treat 4.5 mgd of wastewater per day, and is currently operating at 2.25 mgd. The maximum per day over the past twelve months was 2.249 mgd. Thus, there is sufficient capacity for Wastewater.

Stormwater Management

The Level of Service (LOS) for Stormwater Management is as follows:

Design Storm Event"	25-year frequency/24-hour duration event
On-site Stormwater Management:	Retention of the first one inch of rainfall for areas of more than one acre.
Stormwater Quantity:	Post development Stormwater runoff flow rates, quantities, peaks, and velocities shall be equal to or less than levels that existed prior to development.
Stormwater Quality:	No significant degradation of water quality in receiving water bodies.

A St Johns River Water Management District Permit for this project was issued on March 13, 2018 and a copy was provided to the City. This permit is valid through March 11, 2023.

Potable Water

The LOS for potable water is 122 gallons per capita per day (gpcd) per household. Based on the City of Cocoa EAR Population Projections report, the average permanent resident per dwelling unit is 2.35 per occupied unit. Thus, the average demand per household is estimated at 287 gpcd, and based on the 94 proposed dwelling units the overall demand is 26,978 gpcd.

The Dyal Plant provides potable for the City of Cocoa service area and our current Consumptive Permit (CUP) allows for up to 40 mgd, approximately 31.2 mgd in ground water and 8.8 mgd surface water. The City currently operates and provides up to 22 mgd on average and a maximum of 24 mgd. Thus, there is sufficient capacity for Potable Water.

Solid Waste

The Level of Service (LOS) for the City of Cocoa is 1.2 tons of solid waste disposal per capita per year, and residential collection LOS shall be 2 times per week per household with green waste and recyclables once per week. The City contracts with Waste Management for the provision of solid waste, and the projected solid waste generated will be collected consistent with the adopted level of service standards.

Roadways (Transportation)

The minimum LOS for SR501 (Adamson Road) is D.

The Space Coast TPO Traffic Counts Report for 2018 indicates that for the SR524 to Pine Rd segment of Adamson Road, the average annual daily traffic trips is 6,100 and it is classified as Urban Minor Collector. Based on the Current Maximum Acceptable Volume (17,700) established by the Space Coast TPO, there is sufficient capacity on Adamson Road to support this development.

Recreation

The Level of Service (LOS) for Recreation is 1.25 acres per 1,000 population.

Pursuant to the City of Cocoa Comprehensive Plan EAR (October 2010) Data and Analysis, there exists a surplus of 118.34 acres of parks, which was determined to be more than sufficient to meet the needs of the citizens through 2020. The City's current population is 19,286 (2018 BEBR) which requires 23.54 acres of park and recreation facilities. The EAR identified the City as having 323.58 acres (including the 165.09 acres Cocoa Conservation Area) available for residents. Thus, the City has sufficient recreation/parks to support the project and maintain the adopted LOS.

Schools

A School Capacity Availability Determination Letter is required for the project and has been applied for by the applicant. A copy will be provided to the City as soon as it is issued.

STRATEGIC PLAN CONNECTION:

While the City’s Strategic Plan does not specifically address residential development, the construction of new single family homes will provide additional housing opportunities for existing and new residents and will enhance the City’s tax base.

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

The Preliminary Subdivision was heard at the June 5, 2019 Planning and Zoning Board meeting. The P&Z Board recommended approval with conditions.

RECOMMENDED MOTION:

Approval of the Preliminary and Final Subdivision for Adamson Creek Phase 1B with the conditions set forth below:

1) A School Capacity Availability Determination Letter (SCADL) from the Brevard Public School District is required prior to recording of the Final Subdivision Plat.

2) All comments generated by the City's flood plain reviewer must be addressed prior to recording of the Final Subdivision Plat.

3) The existing construction lien must be cleared, and a clean title report provided to the City prior to recording the Final Subdivision Plat.

4) Provide a printed name line for each witness signature line within the dedication section of the plat.

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ADAMSON CREEK PHASE ONE-B

A REPLAT OF TRACT 2, TRACT P AND TRACT Q, ADAMSON CREEK PHASE ONE-A, PLAT BOOK 57, PAGES 49-59, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA SECTION 22, TOWNSHIP 24 SOUTH, RANGE 35 EAST CITY OF COCOA, COUNTY OF BREVARD, FLORIDA

LEGAL DESCRIPTION: (BY SURVEYOR)

Tract 2, Tract P, and Tract Q, Adamson Creek Phase One-A, according to the plat thereof, as recorded in Plat Book 57, Pages 49 through 59, of the Public Records of Brevard County, Florida, being more particularly described as follows:

Beginning at the Northeast corner of said Tract Q, said point being the POINT-OF-BEGINNING; thence South 00°16'16" West, along the boundary of said Adamson Creek Phase One-A, a distance of 1,325.91 Feet; thence North 89°51'49" East, along said boundary a distance of 55.91 Feet to the boundary of said Tract 2; thence along said boundary of Tract 2 for the following 10 calls: South 00°16'48" West, a distance of 37.34 Feet; thence South 47°15'38" West, a distance of 214.04 Feet; thence South 42°44'22" East, a distance of 7.26 Feet; thence South 47°15'38" West, a distance of 120.00 Feet; thence North 42°44'22" West, a distance of 55.61 Feet; thence North 46°20'30" West, a distance of 70.63 Feet; thence North 22°22'40" West, a distance of 101.43 Feet; thence North 01°37'28" East, a distance of 69.55 Feet; thence North 00°16'48" East, a distance of 160.00 Feet; thence North 89°43'12" West, a distance of 215.06 Feet to the Northeast corner of said Tract P; thence along the boundary of said Tract P for the following 13 calls: South 00°16'48" West, a distance of 50.37 Feet; thence South 22°53'03" East, a distance of 62.48 Feet; thence South 10°15'09" East, a distance of 47.30 Feet; thence South 07°40'37" East, a distance of 60.31 Feet; thence South 10°01'16" East, a distance of 51.10 Feet; thence South 11°07'56" East, a distance of 61.60 Feet; thence South 30°47'51" West, a distance of 71.13 Feet; thence South 87°01'59" West, a distance of 86.36 Feet; thence South 69°24'44" West, a distance of 59.54 Feet; thence South 73°06'54" West, a distance of 73.94 Feet; thence North 49°20'45" West, a distance of 108.29 Feet; thence North 36°27'41" West, a distance of 60.66 Feet; thence North 89°45'21" West, a distance of 67.96 Feet to the West line of said Tract P; thence North 00°14'39" East, along said West line a distance of 315.19 Feet to the Northwest corner of said Tract P; thence North 89°43'12" West, a distance of 20.00 Feet to the West line of said Adamson Creek Phase One-A; thence North 00°14'39" East, along said West line, a distance of 1,177.41 Feet to the North line of said Adamson Creek Phase One-A; thence North 89°53'03" East, along said North line, a distance of 918.37 Feet to the POINT-OF-BEGINNING.

Containing 30.862 Acres of land more or less.

NOTES:

1. The bearings shown hereon are based on the State Plane Coordinate System for Florida's East Zone, North American datum of 1983, readjustment of 1990. The monumentation utilized are Interstate 95 monuments I95 73 A75 and I95 73 A78, said coordinate system yields a measured bearing along the East line of Section 22, Township 24 South, Range 35 East as North 00°14'39" East.

2. The following easements are hereby granted:

   a. A Public Utilities Easement 10 Feet in width across all Lots and tracts contiguous with and adjacent to the Road rights-of-way dedicated by this Plat is reserved for the installation of Florida Power and Light (F.P.&L.) facilities, potable water, reclaimed water and other public utilities unless otherwise noted.

   b. An easement to City of Cocoa and Brevard County for emergency maintenance and ingress/egress over all private drainage easements and storm water management tracts.

   c. An easement to the St. Johns River Water Management District over all drainage easements and Tracts for access to adjoining conservation tracts.

   d. A 5 foot wide Public Utilities Easement along the side and rear of all lots.

   e. All easements denoted as "Private Drainage Easement" and "Private Sidewalk Easement" are granted to the Adamson Creek Homeowners Association, Inc. for stormwater drainage.

   f. The 5 foot wide Private Fence Easement as shown hereon is granted to the Adamson Creek Homeowners Association, Inc. for fence and buffer.

3. All platted utility easements shall provide that such easements shall also be easements for the construction, installation, maintenance, and operation of cable television services; provided, however, no such construction, installation, maintenance, and operation of cable television services shall interfere with the facilities and services of an electric, telephone, gas, or other public utility. In the event a cable television company damages the facilities of a public utility, it shall be solely responsible for the damages. This shall not apply to those private easements granted to or obtained by a particular electric, telephone, gas, or other public utility. Such construction, installation, maintenance, and operation shall comply with the National Electrical Safety Code as adopted by the Florida Public Service Commission.

4. All drainage is private. It is the responsibility of the individual homeowner to maintain said private drainage within their home site. This does not include drainage pipes within the 20' wide Private drainage easements as shown hereon.

5. Tracts B and C are hereby conveyed to, controlled by, and maintained by the Adamson Creek Homeowners Association, Inc., for open space and landscape amenities.

6. Tract D is hereby conveyed to, controlled by, and maintained by the Adamson Creek Homeowners Association, Inc., for storm water management, open space and recreational amenities.

7. Tract K is hereby conveyed to, controlled by, and maintained by the Adamson Creek Homeowners Association, Inc., for open space and recreational amenities. Tract K is subject to a Private Drainage Easement as shown hereon, for the installation, operation and maintenance of, and access to the stormwater facility.

8. Tract P and Q are hereby conveyed to, controlled by, and maintained by the Adamson Creek Homeowners Association, Inc., for open space, private drainage facilities, private utilities and private recreational amenities, subject to the wetland conservation easements and other easements of record.

9. Tract R-1 shall be owned, controlled by, and maintained by the Adamson Creek Homeowner's Association, Inc., for a private road, subject to a non-exclusive and perpetual easement for the purposes of pedestrian and vehicular ingress and egress for the use of the owners of the lots platted herein, their guests and invitees, and all private and public agencies providing mail delivery, utility services, public safety and law enforcement services and governmental services to the platted property; provided, further that a non-exclusive easement over, under, through and across said Tract is hereby dedicated to all public utilities providers including, but not limited to, cable service providers, for the purposes of construction, maintaining, repairing, and replacing their respective utility facilities which provide services to the platted property.

10. Survey monumentation within the subdivision shall be set in accordance with the Florida Statutes Chapters 177.091(8) & 177.091(9).

THIS PLAT IS SUBJECT TO THE FOLLOWING MATTERS OF RECORD:

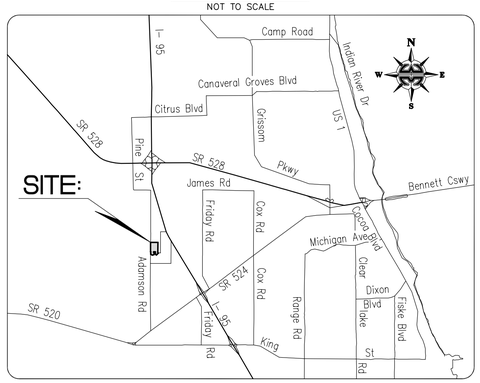
1. Restrictions, reservations and covenants as shown on Plat of Adamson Creek Phase One-A, recorded in Plat Book 57, Page 49, of the Public Records of Brevard County, Florida.

2. Declaration of Covenants, Conditions and Restrictions, recorded in Official Record Book 5821, Page 2831, as amended by instrument recorded in Official Records Book 5821, Page 2858, instrument recorded in Official Records Book 5851, Page 9854, instrument recorded in Official Records Book 5880, Page 2379, and instrument recorded in Official Records Book 5908, Page 4101, together with assignment recorded in Official Records Book 7607, Page 1832, and assignment recorded in Official Records Book 8071, Page 1953, all of the Public Records of Brevard County, Florida.

3. Binding Development Agreement recorded in Official Records Book 5903, Page 6559, as amended by instrument recorded in Official Records Book 6192, Page 2697, all of the Public Records of Brevard County, Florida.

VICINITY MAP

NOT TO SCALE



OPEN SPACE CALCULATION TABLE

TRACT	AREA (±ACRES)	AREA (±PERCENT)	USE	COMMON OPEN SPACE CREDIT
B,C,P,Q	***10.47***	***33.94%***	***OPEN SPACE AND LANDSCAPE AMENITIES***	***1.57***
B	0.56	1.81%	LANDSCAPE AMENITIES	0.52
C	0.07	0.24%	LANDSCAPE AMENITIES	0.07
P	3.55	1.84%	PRESERVATION OF UPLANDS, WETLANDS & DRAINAGE	0.98
Q	6.29	3.26%	PRESERVATION OF UPLANDS, WETLANDS & DRAINAGE	0.00
D	***1.59***	***5.16%***	***STORMWATER MANAGEMENT, OPEN SPACE AND RECREATIONAL AMENITIES *50% OF 48.26 AC. = 24.13 AC. (TOTAL USABLE POND)***	***1.59***
K	***0.30***	***0.97%***	***OPEN SPACE AND RECREATIONAL AMENITIES***	***0.30***
N/A	15.03	48.71%	RESIDENTIAL DEVELOPMENT (94 LOTS)	0.00
R-1	3.46	11.21%	PRIVATE ROAD RIGHT-OF-WAY	0.00
	12.37	40.09%	TOTAL RECREATION COMMON OPEN SPACE	12.37
	30.86	***100.00%***	TOTAL PUD BOUNDARY	30.86
			PROVIDED OPEN SPACE PHASE ONE-B	**3.47**
			PREVIOUSLY PROVIDED OPEN SPACE PHASE ONE-A	**28.66**
			OPEN SPACE TO BE PROVIDED IN PHASE ONE-C	**16.13**
			TOTAL OPEN SPACE TO BE PROVIDED 25% OF 192.90 ACRES OVERALL P.U.D.=48.26 ACRES	**48.26**

LEGEND:

□	= 4"x4" CONCRETE MONUMENT WITH NAIL AND DISK MARKED "PRM LB 3608" (SET)		
■	= 4"x4" CONCRETE MONUMENT WITH NAIL AND DISK MARKED "PRM LB 3608" (FOUND), (UNLESS OTHERWISE SHOWN)		
●	= NAIL AND DISK MARKED "PCP LB 3608" (SET)	○	= 5/8" ROD & ALUMINUM CAP MARKED "PRM LB 3608"
○	= NAIL AND DISK MARKED "PCP LB 3608" (FOUND)		
△	= NAIL AND DISK MARKED "PRM LB 3608" (SET)		
▲	= NAIL AND DISK MARKED "PRM LB 3608" (FOUND)		
PU&DE	= PUBLIC UTILITIES AND DRAINAGE EASEMENT		
C##	= CURVE NUMBER FOR CURVE TABLE		
L##	= LINE NUMBER FOR LINE TABLE	X	= DENOTES LINE BREAK/CHANGE IN DIRECTION
R/W	= RIGHT-OF-WAY	(R)	= RADIAL
P.B.	= PLAT BOOK	(NR)	= NON-RADIAL
PG.	= PAGE	ESMT.	= EASEMENT
RP	= RADIUS POINT	O.R.B./O.R.BOOK	= OFFICIAL RECORDS BOOK
POL	= POINT-ON-LINE	H.O.A.	= HOME OWNERS ASSOCIATION
POC	= POINT-ON-CURVE	LB	= LICENSED BUSINESS
PI	= POINT-OF-INTERSECTION	PLS	= PROFESSIONAL LAND SURVEYOR
PT	= POINT-OF-TANGENCY	PSM	= PROFESSIONAL SURVEYOR AND MAPPER
PC	= POINT-OF-CURVATURE	R	= RADIUS
PRC	= POINT-OF-REVERSE CURVATURE	D/Δ	= DELTA
PCC	= POINT-OF-COMPOUND CURVATURE	L	= LENGTH
P.O.B.	= POINT-OF-BEGINNING	CD/CH	= CHORD DISTANCE
P.O.C.	= POINT-OF-COMMENCEMENT	CB	= CHORD BEARING
PRM	= PERMANENT REFERENCE MONUMENT	BLK	= BLOCK
PCP	= PERMANENT CONTROL POINT		

PREPARED BY:

WILLIAM MOTT LAND SURVEYING INC.

CASA BELLA PLAZA
3159 ALZANTE CIRCLE, SUITE 103
MELBOURNE, FLORIDA 32940
PHONE (321) 751-4444 FAX (321) 751-4445
PROJECT NUMBER: 217-0410

NOTICE: THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEPICTION OF THE SUBDIVIDED LANDS DESCRIBED HEREIN AND WILL IN NO CIRCUMSTANCES BE SUPPLANTED IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF THE PLAT. THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

CERTIFICATE OF REVIEWING SURVEYOR

I HEREBY CERTIFY, That I have reviewed the foregoing plat and find that it is in conformity with Chapter 177, Part 1, Florida Statutes.

_____
Robert M. Packard P.S.M.
Reg. Florida Surveyor & Mapper #3867
Reviewing Surveyor for the City of Cocoa

CERTIFICATE OF APPROVAL BY MUNICIPALITY

THIS IS TO CERTIFY, That on _____ the City Council of the City of Cocoa, Floirda, approved the foregoing plat

_____
Jake Williams, Jr. Mayor

ATTEST _____
Carie Shealy, City Clerk

CERTIFICATE OF CLERK

I HEREBY CERTIFY, That I have examined the foregoing plat and find that it complies in form with all the requirements of Chapter 177, Part 1, Florida Statutes, and was filed for record on

_____ at _____.
File No. _____.

_____
Clerk of the Circuit Court
in and for Brevard County, FL

PLAT BOOK _____ PAGE _____

SHEET 1 OF 2

SECTION 22 TWP. 24 S., RANGE 35 E.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That the Corporation named below, being the owner in fee simple of the lands described in

ADAMSON CREEK PHASE ONE-B

Hereby dedicates said lands and plat for the uses and purposes therein expressed and dedicates all public drainage and utility easements as further described in the notes or as shown hereon.

The developer hereby dedicates to the public and The City of Cocoa, all easements shown hereon as public easements and an ingress/egress easement for law enforcement and emergency vehicles, emergency access and emergency maintenance over and across Tract R-1 and an easement for the installation and maintenance of utilities over Tract R-1, noted as a private road as shown hereon. The roadway easement, drainage facilities and private drainage easements within the subdivision are not dedicated to, or the responsibility of The City of Cocoa.

In witness of, D.R. Horton, Inc., a Delaware corporation, by it's authorized representative named below hereto on this _____ day of _____ A.D. 2019.

By_____
Daniel J. Liparini
Assistant Secretary

D.R. Horton, Inc.
a Delaware Corporation
1430 Culver Drive N.E.
Palm Bay, FL 32907

Signed and sealed in the presence of: _____

_____

STATE OF FLORIDA COUNTY OF BREVARD

THIS IS TO CERTIFY, That on _____ before me, an officer duly authorized to take acknowledgments in the State and County aforesaid, personally appeared Daniel J. Liparini respectively as Assistant Secretary of D.R. Horton, Inc., a Delaware Corporation, Incorporated under the laws of the State of Delaware, to me known to be the individual and officer described in and who executed the foregoing Dedication and severally acknowledged the execution thereof to be their free act and deed as such officer thereunto duly authorized; that the official seal of said corporation is duly affixed thereto; and that the said Dedication is the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereto set my hand and seal on the above date.

_____ SEAL
NOTARY PUBLIC

My Commission Expires _____

In witness of, Adamson Creek Homeowners Association, Inc., a Florida corporation, by it's authorized representative named below hereto on this _____ day of _____ A.D. 2019.

By_____
Sonja Pedretti
President

Adamson Creek Homeowners Association, Inc.
1430 Culver Drive N.E.
Palm Bay, FL 32907

Signed and sealed in the presence of: _____

_____

STATE OF FLORIDA COUNTY OF BREVARD

THIS IS TO CERTIFY, That on _____ before me, an officer duly authorized to take acknowledgments in the State and County aforesaid, personally appeared Sonja Pedretti respectively as President of Adamson Creek Homeowners Association, Inc., a Florida Corporation, Incorporated under the laws of the State of Florida, to me known to be the individual and officer described in and who executed the foregoing Dedication and severally acknowledged the execution thereof to be their free act and deed as such officer thereunto duly authorized; that the official seal of said corporation is duly affixed thereto; and that the said Dedication is the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereto set my hand and seal on the above date.

_____ SEAL
NOTARY PUBLIC

My Commission Expires _____

CERTIFICATE OF SURVEYOR

KNOW ALL MEN BY THESE PRESENTS, That the undersigned, being a licensed and registered land surveyor, does hereby certify that on November 29, 2017, I completed the survey of the lands as shown in the foregoing plat; that the plat was prepared under my direction and supervision and said plat is a correct representation of the lands therein described and platted; that permanent reference monuments have been placed as shown thereon and complies with all the survey requirements of Chapters 177 Part 1 & 472 Florida Statutes; and that said land is located in Brevard County Florida.
Dated _____

_____ Registration No. 5060
Jonathan M. Mott P.L.S. 5060
William Mott Land Surveying Inc.
3159 Alzante Circle, Suite 103
Melbourne, Florida 32940
Certificate of Authorization LB 3608

PREPARED BY:
WILLIAM MOTT LAND SURVEYING INC.
CASA BELLA PLAZA
3159 ALZANTE CIRCLE, SUITE 103
MELBOURNE, FLORIDA 32940
PHONE (321) 751-4444 FAX (321) 751-4445
PROJECT NUMBER: 217-0410

ADAMSON CREEK PHASE ONE-B

A REPLAT OF TRACT 2, TRACT P AND TRACT Q, ADAMSON CREEK PHASE ONE-A, PLAT BOOK 57, PAGES 49-59, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA SECTION 22, TOWNSHIP 24 SOUTH, RANGE 35 EAST CITY OF COCOA, COUNTY OF BREVARD, FLORIDA

PLAT BOOK _____ PAGE _____
SHEET 2 OF 2
SECTION 22 TWP. 24 S., RANGE 35 E.

GRAPHIC SCALE
60 0 30 60 120 240
(IN FEET)
1 inch = 60 ft.

W S N E

WEST 1/4 CORNER OF SECTION 22/24/35 RAIL ROAD SPIKE (FOUND)

28 21 / 27 22 SOUTHWEST CORNER OF SECTION 22/24/35 RAIL ROAD SPIKE (FOUND)

N 00°14'39" E 2652.54'

ADAMSON ROAD
A.K.A. WENNER ROAD
150' PUBLIC ROAD RIGHT-OF-WAY
75' RIGHT OF WAY PER
O.R. BOOK 746, PAGE 878

N 89°53'49" E 75.00'

N 89°43'12" W 20.00'

N 00°14'39" E 148.83'

N 00°14'39" E 315.19'

TRACT B - LANDSCAPE ADAMSON CREEK PHASE ONE-A PLAT BOOK 57, PAGES 49-59

S 00°14'39" W 161.62'

WEST LINE OF TRACT P ADAMSON CREEK PHASE ONE-A

N 55°43'55" W 38.43'

N 57°58'00" E 49.94'

NORTHWEST CORNER OF TRACT P ADAMSON CREEK PHASE ONE-A

N 78°28'15" E 83.44'

N 89°45'21" W 67.96'

N 36°27'41" W 60.66'

N 30°31'05" W 65.07'

LIMITS OF CONSERVATION EASEMENT

TRACT E
STORM WATER MANAGEMENT
ADAMSON CREEK PHASE ONE-A
PLAT BOOK 57, PAGES 49-59

N 49°20'45" W 108.29'

S 73°06'54" W 73.94'

S 69°24'44" W 59.54'

S 87°01'59" W 86.36'

BOUNDARY OF TRACT P ADAMSON CREEK PHASE ONE-A

S 10°01'16" E 51.10'

S 30°47'51" W 71.13'

S 11°07'56" E 61.60'

S 07°40'37" E 60.31'

PRM SET 1.00' OFF-SET NORTHERLY ON LINE

S 22°53'03" E 62.48'

S 00°16'48" W 50.37'

NORTHEAST CORNER OF TRACT P ADAMSON CREEK PHASE ONE-A

S 10°15'09" E 47.30'

TRACT P
OPEN SPACE
3.55± Ac.

CONSERVATION EASEMENT PER OFFICIAL RECORDS BOOK ____, PAGE ____

S 65°03'16" E 57.90'

S 22°53'00" E 17.62'

SOUTH LINE OF NORTHWEST 1/4 OF SECTION 22/24/35

S 89°43'12" E 157.44'

119.80'

82.62'

WEST LINE OF NORTHWEST 1/4 OF SECTION 22/24/35
1326.27'

ADAMSON ROAD
A.K.A. WENNER ROAD
150' PUBLIC ROAD RIGHT-OF-WAY
75' RIGHT OF WAY PER
O.R. BOOK 746, PAGE 878

N 89°53'09" E 75.00'

21 16 / 22 15 NORTHWEST CORNER OF SECTION 22/24/35 RAIL ROAD SPIKE (FOUND)

WEST LINE OF ADAMSON CREEK PHASE ONE-A

N 00°14'39" E 937.64'

EAST RIGHT-OF-WAY LINE OF ADAMSON ROAD 1177.41'

5.0' PRIVATE FENCE EASEMENT

TRACT B - 0.56± Ac.

TRACT C 0.07± Ac.

TRACT B

ORSINO LANE (TRACT R-1)

50' PRIVATE RIGHT-OF-WAY

673.30'

SAXTON ROAD (TRACT R-1)

324.94' N 00°16'48" E 614.06' 289.11'

PI/POL PT PC PRC PI/POC PCC

20' PRIVATE DRAINAGE EASEMENT

20' PRIVATE DRAINAGE & SIDEWALK EASEMENT

TRACT D
STORM WATER MANAGEMENT
1.59± Ac.

SEE DETAIL BELOW RIGHT

TRACT K
0.30± Ac.

TRACT Q
OPEN SPACE
6.29± Ac.

CONSERVATION EASEMENT PER OFFICIAL RECORDS BOOK ____, PAGE ____

LIMITS OF CONSERVATION EASEMENT

DETAIL
N.T.S.

TRACT D
TRACT K
SAXTON ROAD

UNPLATTED
O.R. BOOK 3628, PAGE 4911

60' FPL EASEMENT O.R. BOOK 3628, PAGE 460

N 89°53'04" E 1326.27'

N 89°53'03" E 918.37' NORTH LINE OF ADAMSON CREEK PHASE ONE-A

UNPLATTED OFFICIAL RECORDS BOOK 3522, PAGE 3523-A

EASEMENT #1 O.R. BOOK 2348, PAGE 0346 AND O.R. BOOK 2348, PAGE 0340

455.48'

201.53'

LINE TABLE		
LINE	LENGTH	BEARING
L1	21.77'	S 15°31'21" E
L2	23.10'	S 88°33'54" E
L3	52.78'	N 70°34'26" E
L4	5.32'	N 38°27'11" E
L5	43.85'	S 85°58'48" W
L6	42.48'	S 63°57'45" W
L7	17.50'	S 17°11'33" W
L8	21.89'	S 40°12'18" W
L9	42.95'	S 63°49'43" E
L10	23.85'	S 43°54'44" E
L11	56.61'	N 56°19'20" W
L12	91.21'	N 46°39'22" W
L13	53.69'	N 55°00'28" W
L14	44.05'	N 52°17'32" W
L15	85.00'	N 46°04'00" W
L16	66.51'	N 34°04'25" W
L17	51.83'	N 24°39'54" W
L18	58.55'	N 26°27'40" W
L19	17.85'	N 64°37'03" W
L20	57.51'	N 48°37'17" W
L21	33.74'	N 22°32'46" W
L22	58.99'	N 79°02'11" W
L23	9.02'	N 62°02'19" W
L24	69.73'	N 71°56'01" W
L25	69.62'	N 81°19'48" W
L26	33.67'	N 85°18'00" W
L27	29.76'	N 44°51'15" W
L28	56.84'	N 53°51'12" W
L29	48.90'	N 29°29'21" W

P.O.B.
NORTHEAST CORNER OF TRACT Q
ADAMSON CREEK PHASE ONE-A
PLAT BOOK 57, PAGES 49-59

S 00°16'16" W 1325.91' BOUNDARY OF ADAMSON CREEK PHASE ONE-A

S 00°16'16" W 282.90' S 00°16'16" W 188.51' S 00°16'18" W 119.74' 50.00'

25' EASEMENT #5 OFFICIAL RECORDS BOOK 3627, PAGE 2516

25' EASEMENT #4 O.R. BOOK 2348, PAGE 340

TRACT R
STORM WATER MANAGEMENT
ADAMSON CREEK PHASE ONE-A
PLAT BOOK 57, PAGES 49-59

TRACT E
STORM WATER MANAGEMENT
ADAMSON CREEK PHASE ONE-A
PLAT BOOK 57, PAGES 49-59

BOUNDARY OF TRACT 2 ADAMSON CREEK PHASE ONE-A

N 01°37'28" E 69.55'

N 00°16'48" E 160.00'

101.43' N 22°22'40" W

70.63' N 46°20'30" W

55.61' N 42°44'22" W

S 50°40'47" W 127.16'(R)

S 78°54'47" W 128.57'(R)

Δ=11°22'01" L=24.80'

R=1125.00' Δ=2°14'00" L=43.86'

CH=S73°33'47"E CB=S72°26'47"E

R=1125.00' Δ=2°14'00" L=43.86'

Δ=36°33'33" L=47.94'

7.26' S 42°44'22" E

S 47°15'38" W 120.00'

S 47°15'38" W 214.04'

ADAMSON CREEK PHASE ONE-A
PLAT BOOK 57, PAGES 49-59

PRM SET 0.50' OFF-SET WESTERLY ON LINE BOUNDARY OF ADAMSON-CREEK PHASE ONE-A

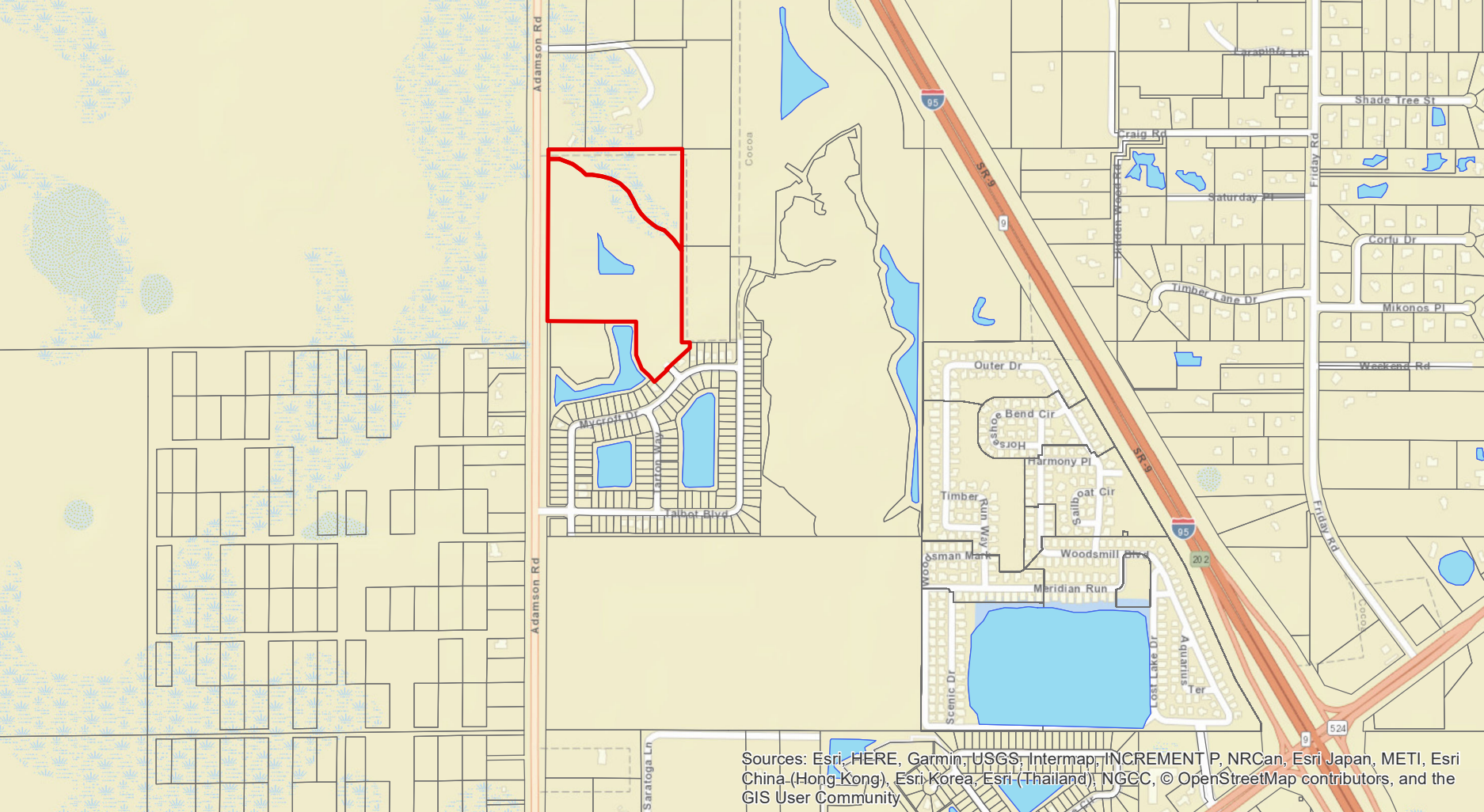
S 00°16'48" W 37.34'

N 89°51'49" E 55.91'

50' EASEMENT #2 OFFICIAL RECORDS BOOK 2348, PAGE 0340

UNPLATTED OFFICIAL RECORDS BOOK 5120, PAGE 0013

UNPLATTED AMERICAN TOWER CORPORATION COCOA SITE #2520 OFFICIAL RECORDS BOOK 3628, PAGE 4911


Adamson Rd
Cocoa
SR 9
Craig Rd
Linden Wood Rd
Friday Rd
Saturday Pl
Corfu Dr
Timber Lane Dr
Mikonos Pl
Weekend Rd
Outer Dr
Harmony Pl
Timber Run Way
Woodsmill Blvd
Meridian Run
Lost Lake Dr
Scenic Dr
Aquarius Ter
Myrtle Dr
Talbot Blvd
Saratoga Ln
95
202
524
Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, © OpenStreetMap contributors, and the GIS User Community

FLORIDA TODAY
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(For Info Only - NOT A BILL)

Customer: CITY OF COCOA (TE)

Address: 65 STONE ST
COCOA FL 32922
USA

Ad No.: 0003601754
Pymt Method Invoice
Net Amt: $204.02

Run Times: 1

No. of Affidavits: 1

Run Dates: 06/05/19

Text of Ad:

AD#3601754, 6/5/2019
CITY OF COCOA
NOTICE OF PUBLIC HEARING
NOTICE IS HEREBY GIVEN THAT
THE COCOA CITY COUNCIL
PROPOSES TO CONSIDER THE
FOLLOWING:

PRELIMINARY AND FINAL SUBDIVISION
(ADAMSON CREEK PHASE 1B)
Approval of a Preliminary and Final Subdivision consistent with Chapter 18 Subdivisions and Appendix A Zoning of the City Code. The property owner desires to develop 94 single-family residential lots along with a stormwater tract and amenities as Phase 1B of a previously approved Planned Unit Development known as Adamson Creek. The subject property is located on the east side of Adamson Road, approximately 1.25 miles north of State Road 524 and contains +/- 27.31 acres. The property is identified by Parcel #'s: 24-35-22-25-2 and 24-35-22-25-Q.

BINDING DEVELOPMENT AGREEMENT
A Development Agreement between Virgin Trains USA Florida, LLC and the City of Cocoa to approve conceptual plans, an amenity schedule, and construction timeline for a residential subdivision, consistent with RU-1-7 zoning, and to authorize the City Manager to execute an excavation permit on the following properties, commonly known as the "Space Needle Property", to implement that Stipulated Settlement Agreement, made and entered into December 11, 2007 and recorded in the Brevard County Official Records Book 5837, Page 2226: Parcel #'s: 24-35-10-00-3 and 24-35-11-01-16-6.

CITY COUNCIL WILL CONSIDER THESE
ITEMS ON
JUNE 12, 2019
AT 6:00 P.M. OR SOON THEREAFTER IN
THE COCOA CITY HALL COUNCIL
CHAMBERS LOCATED AT
65 STONE STREET, COCOA, FL

Interested parties are hereby advised that they may appear at said meeting and be heard with respect to the application. All persons and parties are hereby advised that if they should decide to appeal any decision made by the City Council with respect to any matter considered at this hearing, they will need a record of the proceedings and that for such purpose, affected persons 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. The Local Planning Agency and City Council reserve the right to continue or postpone hearings to a date certain without re-advertising.
Information pertaining to the above may be inspected at the Planning & Zoning Division beginning the Friday before the meeting, between 8:00 a.m. and 5:00 p.m., Monday through Friday, or by phoning (321) 433-8535.
The facility where this public hearing will be held is accessible to the physically handicapped. SPECIAL ACCOMMODATIONS: Persons with disabilities needing special accommodations to participate in this proceeding should contact the City Clerk's Office at (321) 433-8484 no later than 48 hours prior to the proceeding for assistance.

Legislation Details (With Text)

File #:	19-264	**Version:**	1	**Name:**	
Type:	Report			**Status:**	Public Hearing
File created:	5/30/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	

Title: Approve a Settlement Implementation Agreement between Virgin Trains USA Florida, LLC and the City of Cocoa to approve conceptual plans, an amenity schedule, and construction timeline for a residential subdivision, consistent with RU-1-7 zoning, and to authorize the City Manager to execute an excavation permit on the following property, commonly known as the former “Space Needle Property”, to implement that Stipulated Settlement Agreement, made and entered into December 11, 2007 and recorded in the Brevard County Official Records Book 5837, Page 2226: Parcel #: 24-35-10 -00-3. (Community Services Director)

Sponsors:

Indexes:

Code sections:

Attachments: Cocoa Borrow Pit Concept_Canal_2019.05.30
Cocoa Borrow Pit Concept_Osage_2019.05.30
Legal Description from Space Needle Contract
Legal Ad Proof - Subdiv and Virgin Trains DA
Brightline Residential Subdivision Project Development Agreement (CLEAN) 6-7-19
Space Needle Stipulated Settlement Agreement

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: June 6, 2019
Agenda Date: June 12, 2019
Prepared By: Dodie Selig, Planning and Zoning Manager
Through: John A. Titkanich, Jr., AICP, ICMA-CM, City Manager
Requested Action:
Approve a Settlement Implementation Agreement between Virgin Trains USA Florida, LLC and the City of Cocoa to approve conceptual plans, an amenity schedule, and construction timeline for a residential subdivision, consistent with RU-1-7 zoning, and to authorize the City Manager to execute an excavation permit on the following property, commonly known as the former “Space Needle Property”, to implement that Stipulated Settlement Agreement, made and entered into December 11, 2007 and recorded in the Brevard County Official Records Book 5837, Page 2226: Parcel #: 24-35-10-00-3.

BACKGROUND:

The subject property comprises approximately 246 acres at the northeast corner of State Road 528 and Interstate 95 and was part of a project formerly known as the Space Needle”. The property is subject to a Preceding Development Agreement, dated August 24, 2004 between the City of Cocoa and Florida Space Needle, LLC.

In addition, the property is also subject to a Stipulated Settlement Agreement entered into in Brevard County v. City of Cocoa, Case No. 05-2005-018141, which was recorded on January 9, 2008 in Official Record Book 5837, Page 2226 of Brevard County, Florida. The Stipulated Settlement Agreement emanated from several lawsuits filed against the City when the property was annexed. The City prevailed in those lawsuits including the annexation appeal that went before the 5th District Court of Appeal. However, a settlement agreement was entered between the County, City and Developer when the County agreed not to appeal the case to the Florida Supreme Court.

The Developer has entered into a contract to purchase the property and seeks to construct a low-density residential subdivision (approx. 320 units) on the Property consistent with the terms and conditions of the Preceding Development Agreement and the Stipulated Settlement Agreement and as more specifically required by this Settlement Implementation Agreement.

Project description

The proposed project will entail the development of approximately 320 single-family residential lots and homes with a minimum living area under air of one thousand five hundred (1,500) square feet and an average living area under air of one thousand eight hundred (1,800) square feet. All streets will be developed as private roadways to be owned and maintained by the developer/home owners association. The project will include the creation of private recreational common area green space and amenities, including a private Amenity Center and a proposed 38-acre lake in addition to an existing lake on the site. The Project will be required to have a homeowner's association, which will be responsible for maintaining the common areas in perpetuity.

Elements of the Development Agreement

Land Use Designations

The current Future Land Use designation on the property is Very Low Density Residential with several areas subject to a Conservation overlay designation. However the property does not have a City zoning designation. Therefore, in furtherance of compliance with the City's Comprehensive Plan, the Developer agrees to seek a City zoning designation for the Property of RU-1-7, Single-Family Residential District, which is consistent with the very low-density residential Future Land Use Map designation. Within thirty (30) days of the Closing Date, unless an extension is granted by the City Manager for good cause, the Developer agrees to submit a complete rezoning application with the City to request approval of a RU-1-7 zoning designation.

If the RU-1-7 application is denied by the City Council, the Developer will be required to submit a different rezoning application consistent with the very-low density residential Future Land Use Map designation until the City Council approves an acceptable City zoning designation for the Property. If a different zoning district is approved, the Developer acknowledges that a modification to this Agreement may be required to comply with the approved district's dimensional and/or open space requirements.

Ingress/Egress Points

Pursuant to the Stipulated Settlement Agreement, the Project shall have two public road access points. The northern access point shall be at the existing southern terminus of Bahia Street. However, Brevard County is required to choose between two options for public road access at the southeastern corner of the Project: (1) Osage/Angelica Street or (2) south along the 100-foot wide drainage canal right-of-way connecting to Grissom Road.

The Parties acknowledge that the County's choice will result in a small variation to the subdivision layout of several of the residential lots proposed within the southeast corner of the Project. To account for this variation, the Parties have agreed to two alternative Conceptual Development Plans for the Project. Upon the Effective Date of this Agreement, the Parties agree to submit the two alternative Conceptual Development Plans to the County and formally request, in writing, that the County choose one of the public road access options for the southeastern corner of the Project as required by the Stipulated Settlement Agreement.

The Parties also agree to cooperate with each other in promptly obtaining the County's decision on the chosen public road access option at the southeastern corner of the Project. In addition, until the selection is made by the County, the Parties cannot estimate with reasonable certainty the potential cost to the Developer of the public road access to the Property, including the cost of any required land (especially if the drainage canal route is selected), road improvements, drainage, signalization at the Grissom Parkway, lighting or other special roadway requirement. As such, upon selection by the County, the Developer shall work with the County to promptly ascertain, in writing, the estimated cost of public road access, and provide a written copy of the same to the City, no later than six (6) months from the date of the County's selection. If the County's selected option results in unreasonably excessive estimated roadway costs on the Developer that are not economically feasible for the Project to financially support, using reasonable and customary home building industry standards relative to the density of the Project, the Developer may request, in writing, to meet with the City Manager to discuss and negotiate an alternative Concept Plan and any necessary amendments to this Agreement that make the Project economically feasible by reasonable and customary home building industry standards. Any alternative Concept Plan and amendments to this Agreement shall require City Council approval.

Concept Plan

The Project shall be substantially developed in accordance with the alternative conceptual development plan (Concept Plan) depicting the access point at the southeastern corner of the Project chosen by the County as described above. (Exhibit "B")

The Concept Plan is intended to be the general blueprint which details key aspects of the future physical development of the Property. The Concept Plan shall also serve as a necessary guide for future permit applications and permitting necessary to complete the construction of the Project.

Final Plans

Developer will be required to submit an application for, and obtain the City's approval of, a final subdivision plat, final site plan and final engineering plans ("Final Plans") consistent with the Concept Plan and in compliance with the City Code and the amenities schedule required by Section 11.0 of this Agreement.

The Developer acknowledges and agrees that the Concept Plan was not created with specific surveyed dimensions and that during the Final Plans process such dimensions shall be surveyed, duly engineered, and provided to the City for consideration under applicable City Codes.

The Concept Plan shall be subject to reasonable adjustments at the Final Plans phase in order to bring the Project into full compliance with the City Code, and as a result, the exact location, layout and dimensions of the lots, common areas, buildings, landscaping, entrances, utilities, parking and other site improvements may vary slightly between Concept Plan approval and approval of the Final

Plans.

Further, additional lots greater than the number of lots depicted on the Concept Plan may be approved at the City's discretion, provided the additional lots do not reduce the proposed amount of open space and recreational areas depicted on the Concept Plan. These changes shall be allowed as long as the changes are consistent with the development standards noted in this Agreement and preserve the general character of the development shown on the Concept Plan. The City will not unreasonably withhold approval of the Final Plans and amenities schedule.

The Parties agree that time is of the essence to complete the Project. Therefore, if the County selects public road access on Osage/Angelica Street under the Stipulated Settlement Agreement, the Developer shall have eighteen (18) months after said selection to obtain Final approval of the Final Plans unless otherwise agreed by the City Council. However, if the County selects public road access south along the 100 foot-wide drainage canal right-of-way, the Developer shall have eighteen (18) months from the date that the County confirms to the Parties that it has received an order of taking or otherwise acquired the necessary lands or interests to allow the public road access to obtain Final approval of the Final Plans unless otherwise agreed to by the City Council.

Public Utilities

Pursuant to Section 4.8 of the Preceding Development Agreement, the Developer has elected not to design, permit and construct the extension of the water, sewer and reclaimed utilities to the Property ("Utilities"). Therefore, the City will design, permit and construct the extension of the Utilities up to the point(s) of connection at the boundary of the Property as determined and deemed appropriate by the City, subject to the following terms and conditions:

(1) The City will design, permit, construct and make the Utilities available to the Property no later than the date that the Developer has: (a) completed and received a final completion certificate (e.g., evidence of final written approval) from the City for all on-site infrastructure to support the Project including, but not limited to, streets, street lights, on-site utilities, sidewalks, and stormwater facilities; (b) been issued and received building permits for at least ten (10) building permits approved by the City for residential units; and (c) commenced vertical construction of the ten residential homes on the Property ("Utility Completion Date"). Prior to commencing construction of the Utilities, the City shall provide the Developer a written estimate of the Total City Utility Expenses described in Subsection (2) below.

(2) Developer shall complete construction of the Project by obtaining all required certificates of occupancies within five (5) years from the Utility Completion Date ("Project Completion Obligation"). In furtherance of the Project Completion Obligation, within ninety (90) days from the date that the City completes the Utilities, the City will deliver written notice to the Developer documenting the expenses incurred by the City to design, permit and construct the extension of the Utilities to the Property ("Total City Utility Expenses"). Within sixty (60) days of receipt of said written notice, the Developer, at its expense, shall secure the reimbursement of the Total City Utility Expenses in the event the Developer fails to fully satisfy the Project Completion Obligation by providing the City with an irrevocable stand-by letter of credit in the amount of such expenses incurred by the City. The letter of credit shall be in favor of the City and shall be issued by a bank mutually agreed to by the Parties. The letter of credit shall be in a form acceptable to the City to effectuate the reimbursement, if required due to Developer's failure to make reimbursement pursuant to Subsection (3)

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below. The letter of credit shall be subject to being drawn upon by the City in the event that the Developer fails to fully satisfy the Project Completion Obligation. The letter of credit shall remain in effect until such time the City provides written notice to the Developer that they have fully satisfied the Project Completion Obligation or the City receives reimbursement pursuant to Subsection (3) below, whichever occurs sooner. However, the City agrees that Developer may proportionately reduce the value of the letter of credit by the number of certificates of occupancies granted by the City for the homes constructed in the Project. Said reduction shall occur only at twenty percent (20%) intervals of construction. The letter of credit may also be reduced on an annual basis by the amount of any home rule special assessment collected on the Property pursuant to Subsection (4) below. Any reduction of the letter of credit shall require prior written notice to the City and confirmation by the City the reduction amount is accurate.

(3) Upon failure to fully satisfy the Project Completion Obligation, the City may provide Developer written notice declaring Developer in default under this Agreement and demanding full reimbursement, within thirty (30) days, of the Total City Utility Expenses, less any credits as a result of any home rule assessments paid pursuant to Subsection (4) below, if any. If Developer fails to timely make such payment, the City shall have the right to draw upon the letter of credit required by Subsection (2) above.

(4) The City shall have the right at any time to adopt and impose a home rule special assessment on the Property, and the lots created thereon, to recover the Total City Utility Expenses. In furtherance of said right, the Developer hereby voluntarily and irrevocably consents to said assessment and that the extension of Utilities constitutes a special benefit to the Property. Developer further agrees not to directly or indirectly contest or challenge such special assessment. The assessment, if imposed by the City, will be collected and enforced in accordance with the Uniform Method of Collection and Enforcement of Non-Ad Valorem Special Assessments under Florida law.

(5) Within one hundred eighty (180) days of the County's selection of the preferred public road access described in Section 7.0, the Developer shall convey a perpetual public utilities easement upon, over and under the Property that allows the City to connect the future public utilities constructed on the Property with the Barrera Property (approx. 267 acres) located south of State Road 528. It is anticipated that the easement will be a minimum of forty (40) feet and a maximum of sixty (60) feet in width and be located generally around the area where the Developer intends to construct the conveyance system under and over State Road 528 to support the excavation of the proposed lake pursuant to Section 10.0 of this Agreement. In conjunction with the Developer's construction of the conveyance system, Developer shall fully cooperate with the City to coordinate and assist the City's plans and efforts to permit, construct and install future public utilities under State Road 528 including the installation of one or more casings, conduits or culverts to support future water, sewer and reclaimed utilities. The Parties agree that the Developer's coordination, cooperation and assistance does not constitute permission, or the requirement to gain permission, for the City to place the casing, conduit or culverts in the said area which is not owned by the Developer. The Parties acknowledge that the property is not owned by the Developer and that the City must gain the necessary permissions and permits from the property owner (Florida Department of Transportation) and any other required regulatory entity to perform the required utility work. However, the final location and required width of the easement area shall be required to satisfy the City's reasonable and necessary future

utilities needs which shall be determined by the City's Utilities Director. The easement shall be in form approved by the City Attorney. During the construction of the required utility work by the City, the City agrees to coordinate its utility activities in a manner that does not interfere with the excavation operation or the construction and operation of the proposed future Brightline rail line.

(6) The Developer shall be responsible for the design, permitting and construction of all on-site utility infrastructure required to serve the Property including, but not limited to water, sewer, reclaimed stormwater pipes, sewer lift stations and pumps, electric lines and equipment, cable lines and equipment, phone lines and equipment, gas lines and equipment and other utility pipes, lines and equipment. Should City utility policy require that certain on-site water, sewer, reclaimed or stormwater utility infrastructure be conveyed to the City upon completion by the Developer, said conveyance of any such infrastructure shall be by written bill of sale along with any warranties and maintenance bonds or letters of credit.

(7) In the event the Developer fails to convey the utility easement required by Subsection (5) above, or obtain approval of the Final Plans required by Section 8.0 of this Agreement within the time schedule set forth in Section 8.2, or if the City declares, in writing, that Developer failed to complete the lake amenity as required by Section 10.0 either upon completion of the excavation or abandonment, the City's commitment to design, permit and construct the Utilities to the Property shall terminate and thereafter, the Developer, at Developer's sole expense, shall be fully responsible for the design, permitting and construction of the Utilities to the Property in accordance with City technical specifications and standards.

Permitting and Construction of the Lake Amenity

Upon the Effective Date of this Agreement, the Developer shall be allowed to submit an application with the City for an excavation permit for purposes of constructing the proposed 38-acre, more or less, lake amenity as depicted on the Conceptual Plans. The excavation permit shall be subject to Chapter 12.5 of the City Code and shall be in the form of an Excavation Permit Agreement executed by the Parties. The Excavation Permit Agreement shall be subject to the terms and conditions of this Agreement, and any other applicable state and federal laws.

The commencement of excavation shall be contingent upon the Developer closing on the Property and the City's determination that the title commitment does not identify any impediment to the completion of the subdivision of the Property or the excavation of the lake amenity as provided by Section 4.0 of this Agreement.

The excavation site and Property shall be maintained and secured by the Developer in a safe and sanitary condition at all times in compliance with applicable laws, administrative rules, or City Code.

Notwithstanding any other terms and conditions in this Agreement and the Excavation Permit Agreement, Developer, upon completion of the excavation, shall be required to complete the lake amenity in anticipation of, or in conjunction with, the residential subdivision required by this Agreement. Should the excavation be completed before the Final Plans are approved by the City, Developer shall be required to submit, for the City's approval, plans and specifications necessary for the Developer to complete the lake amenity including, but not limited to, bank stabilization, seeding and final contouring and shaping of the lake to support the future subdivision and accommodate the future amenities required by amenity schedule approved by the City during Final Plans approval,

including landscaping, walking trails, usable open space and other pedestrian friendly recreational and beautification features.

The Excavation Permit Agreement shall be in a form approved by the City Manager and City Attorney, and the City Manager is authorized to execute the Excavation Permit Agreement on behalf of the City.

In order to reduce and mitigate against any potential negative impacts of the excavation on surrounding properties, the Developer agrees to employ an excavation strategy that requires the excavation materials to be removed from the Property via a conveyance system running above or underneath State Road 528 for use by the future proposed Brightline railroad route along the State Road 528 corridor. Developer has represented to the City that they are pursuing a permit from the Florida Department of Transportation to employ this excavation strategy subject to the City permitting the excavation. However, during the excavation, access to and from the Property by excavation workers and to receive delivery of equipment and materials for the excavation shall be allowed via the existing public road network as specified in the excavation permit agreement.

Notwithstanding the foregoing, should Developer choose to forego or substantially reduce the scope and size of the excavation, Developer acknowledges that a modification to this Agreement may be required by the City to at least modify the Concept Plan to incorporate more upland buildable areas and recreational space.

Amenities

As a condition of approval of the Final Plans, the Developer shall design, permit and construct, at its own expense, the following minimum schedule of Project amenities and enhancements in scope and scale to adequately support the number of residential lots required for the Project:

(1) Central Amenity Center (community clubhouse) with a feature pool, open space area with a community pavilion (picnic tables and grills) along with a state-of-the-art modern tot-lot and playground. The City prefers that the tot-lot and playground be adequately covered from sun exposure by a playground UV rated canopy and shade trees and that the Developer shall seriously evaluate and consider providing such covering when the amenities schedule is approved during Final Plans approval.

(2) Multi-use sports field.

(3) Multipurpose courts (convertible for volleyball, basketball, pickle ball and/or tennis).

(4) Smaller common open space lots and areas throughout the community that include small playgrounds and areas with benches. The City prefers that the playground and bench areas be adequately covered from sun exposure by a UV rated playground or other canopy and shade trees and that the Developer shall seriously evaluate and consider providing such covering when the amenities schedule is approved during Final Plans approval.

(5) Connected multipurpose trail throughout the community that connects to all recreational common open spaces including the existing lakes and lake amenity.

(6) A streetscape design deemed acceptable by the City, which emphasizes sidewalks, connectivity within the community, tree-lined streets, and decorative street lights to add appeal and security and decorative signage.

(7) Decorative and landscaped entrance features to the Project deemed acceptable to the City which may include a restricted gated entry feature.

(8) The City prefers that the residential driveways shall be constructed of stone or brick pavers, or stamped and stained concrete. The Developer shall seriously evaluate and consider providing such driveways during the approval of Final Plans.

(9) All utilities constructed on the Property including, but not limited to, electric, water, sewer, reclaimed water, cable, phone, fiber optics, natural gas and other similar kinds of utilities to service the Property shall be constructed underground unless otherwise necessary to be above ground and approved by the City. Each lot and all common landscaped areas shall be equipped with in-ground reclaimed water irrigation systems to maximize the use of the City's reclaimed water service.

(10) The Project shall incorporate the use of energy efficient lighting systems, insulation and ENERGY STAR rated windows, low-flow water fixtures, modern heat pumps, energy efficient HVAC systems, and optional roof top solar panels.

The Developer may also propose additional amenities for the City's consideration and approval. All Project amenities and enhancements shall be completed and finally accepted by the City in accordance with the written amenities construction schedule approved by the City in conjunction with the approval of the Final Plans. Upon approval, the written amenities construction schedule shall automatically be deemed incorporated within and made a part of this Agreement. All Project amenities and enhancements shall be maintained in perpetuity by the homeowner's association required to be created by this Agreement.

Building Elevations and Floorplans

As a condition of approval of the Final Plans, the Developer shall submit to the City for final approval building elevations and related floor plans for the proposed homes and Central Amenity Center (community clubhouse) to be constructed on the Property. Upon approval by the City, the building elevations and related floor plans shall be deemed incorporated herein by this reference and said buildings shall be constructed substantially in accordance with the approved building elevations and floor plans.

Further, other aspects of the building façade and roof lines, color scheme, and architectural features depicted on the building may have to be adjusted during the City's final review and administrative approval procedures to issue a building permit. The design of the homes and Central Amenity Center (community clubhouse) shall create one aesthetically pleasing and unified Project.

Homeowner's Association

In conjunction with the approval of the final subdivision for the Project, the Developer shall create a mandatory homeowner's association to govern the Project in accordance with Chapter 720, Florida Statutes. The association shall also be governed by the covenants and restrictions created and recorded against the Property by the Developer as required by this Agreement. A copy of the association's articles of incorporation, by-laws and recorded covenants and restrictions shall be provided to the City prior to the approval of the final subdivision. The homeowner's association shall be responsible for the perpetual maintenance and operation of all common areas and amenities constructed for the Project, shall govern the Project in accordance with the requirements of Florida law including the recorded covenants and restrictions and by-laws of the association, have the power to levy assessments and collect HOA fees, which are used to pay for the maintenance of the community common areas and any other designated areas that are detailed in the covenants and deeds applicable to the Project.

Model Homes

The City agrees to allow the Developer or Developer's chosen homebuilder(s) ("Builder") for the Project to construct both a sales office and up to four (4) model homes to be used for the customary temporary marketing and sales activities of the Builder. The Builder shall have the right to utilize two garages in two model home units as the temporary sales office. The City represents that such marketing and sales activities shall be permitted through buildout of the Project. The City agrees to permit early construction of the model homes prior to or after plat approval, provided that, prior to construction of the model homes, stabilized access to the model home lots and adequate means of fire protection from a City-approved source of water are completed and the following conditions, which are deemed acceptable to Builder, are adhered to:

(a) The model homes shall remain under Builder's ownership and control until such time as a final certificate of occupancy for each model home unit is issued under the conditions set forth below. In other words, the Builder shall not contract for sale, sell, or lease any of the individual model home units until such time as the City issues a final certification of occupancy for each model home unit.

(b) The model homes shall be constructed on existing or proposed lots approved by the City, and any associated parking, pedestrian activity and other activities conducted by sales staff or the general public shall be adequately segregated from construction activities to ensure safety. Parking for the model homes shall be provided in a temporary parking lot to be located in an area approved by the City, which may consist of a mulch surface. Prior to a final certificate of occupancy being issued on the last remaining model home, the mulch surface shall be removed and the area shall either be prepared for home construction, open space or recreational amenity or seeded.

(c) The model sales office shall comply with all applicable state and city regulations regarding accessibility. In addition, Builder shall provide a minimal level of access to all model homes for potential homebuyers with disabilities by providing physical access (via ramp or lift) to the primary level each model home and making photographs of other levels within each home available to the customer.

(d) Prior to construction, the model homes shall be duly permitted by the City in accordance with the City's Code. As part of the building permit application, the Builder shall submit, along with all construction plans for the units, a duly certified boundary survey which shall depict the location and legal description of each individual model lot. The Builder acknowledges and agrees that this legal description is intended to coincide with the eventual location of the lots as depicted and legally described on the final plat. The Builder shall assume full and complete responsibility in the event that said legal descriptions do not conform to the lot lines required by the City in the final plat. The Builder fully understands the construction of model homes before final plat is approved by the City may pose a risk to the Builder if the approved plat is not consistent with the layout of model home on the subject property, and that such risk may require modification or removal of the model home based on the approved plat before a final certificate of occupancy can be issued for the model home. The Builder agrees to defend, indemnify, and hold harmless the City from and against any and all damages, losses or claims arising from the layout and construction of the model home under this Agreement prior to preliminary and final plat approval as provided further in Section 32.0 of this Agreement.

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(e) At such time as the City Building Official completes and approves a final inspection of the model homes, the City will issue a temporary certificate of occupancy. Said temporary certificate of occupancy shall be issued for each model home as a whole. Occupancy of the model home units shall be limited to the sales and marketing efforts for the Project until a final certificate of occupancy is issued for such model home units. It is intended that the model homes can be shown by sales staff to prospective buyers as long as the Building Official has issued the temporary certificate of occupancy and the model is not staffed continuously.

(f) Following completion of all required plat improvements, at the request of the Builder or at such time as the Project development is completed, whichever occurs sooner, the model home units shall be converted into permanent residential units and the City shall issue final certificates of occupancy for each model home unit, provided, that the City Building Official determines that such units are suitable for permanent residential occupancy and in compliance with the City Codes.

Nothing in this Section shall cause to limit the number of inventory homes (pre-sale, spec homes) that may be constructed on the Property. Violation of this Section will also constitute a violation of the City Code of Ordinances, and the provisions of this Section may also be enforced as provided therein. Any Builder desiring to construct a model home pursuant to this Section, other than Developer, shall be provided a copy of this Section by the Developer if Builder is not the owner of the subject property on which the model home will be constructed and shall automatically be deemed to have agreed to the terms and conditions herein as a condition of the issuance of a building permit by the City even if they are not the owner or have not consented, in writing, to the term and conditions of this Section.

Consistency with the City's Comprehensive Plan

Key relevant Comprehensive Plan policies, related to this Settlement Implementation Agreement, include but are not limited to the below:

GOAL 1.1: Create and maintain a broad range of land use activities that maximize the City's potential as a growth center while protecting the public health, safety, welfare, and appearance through the thoughtful planned use and developments of the land and public facilities.

Policy 1.1.1.1: Land Use Categories. "The adopted FLUM [Future Land Use Map] contains and identifies appropriate locations for the following land use categories. The maximum densities/intensities [are] shown in Figure FLU-1…"

Objective 1.1.2.2: Very Low Density Residential (VLDR). Very low-density residential areas consist of neighborhoods of single-family detached housing.

Staff comment: Figure FLU-1 establishes the maximum density for VLDR Future Land Use at 4 dwelling units per acre. With 246 gross acres, and 320 dwelling units, the gross density for the project is 1.30 du/acre. The Stipulated Settlement Agreement provides that the gross density permitted for this property will be approximately

2.03 du/acre. Thus, this proposed development is consistent with both the City Comprehensive Plan Future Land Use policies and the provisions of the Stipulated Settlement Agreement.

Concurrency

Staff will conduct a preliminary concurrency review of services required by the project at such time the applicant applies for the preliminary subdivision. A final review will be completed with the final subdivision and site plan application.

STRATEGIC PLAN CONNECTION:

The proposed Development Agreement which allows for the construction of approximately 320 single -family homes is consistent with the Strategic Plan issues, goals, and objectives related to Physical Image.

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

N/A

RECOMMENDED MOTION:

Approve a Settlement Implementation Agreement between Virgin Trains USA Florida, LLC and the City of Cocoa to approve conceptual plans, an amenity schedule, and construction timeline for a residential subdivision, consistent with RU-1-7 zoning, and to authorize the City Manager to execute an excavation permit on the following properties, commonly known as the former “Space Needle Property”, to implement that Stipulated Settlement Agreement, made and entered into December 11, 2007 and recorded in the Brevard County Official Records Book 5837, Page 2226: Parcel #: 24-35-10-00-3.

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Seville Avenue

Bahia Street

Future Connection

Property Boundary

15' Buffer

50' Haul Road

Existing Lake

76 Lots (75' x 140')

238 Lots (75' x 100')

314 Lots Total

15' Buffer

50' Buffer

Existing Wetland to be Preserved

Existing Lake

Proposed 38 Acre Lake

SW Dakota Avenue

Amenity Center 3.6 Acres

Park

Osage Street / Angelica Street

50' Buffer

Proposed Brightline route

INTERSTATE 95

528

The Lakes of Canaveral Groves Development Plan

May 30th, 2019

North

Scale in Feet: 0' 100' 200' 400'

T:\2018\18-256\Graphics\Cocoa Borrow Pit Concept.psd

Note:
- Development to be in compliance with the Specific Agreement for the "Stipulated Settlement Agreement between Brevard County and City of Cocoa dated December 11, 2007" as it relates to Florida Space Needle, LLC (FSN).
- Final design shall comply with all applicable drainage requirements of the County and SJRWMD.
- Per terms of the Preceding Development Agreement dated August 24, 2004, between the Developer and the City, Water, Wastewater and Reclaimed Water Services (Utilities) shall be developed within the Development Plan such that said Utilities will connect with extensions by the City. Connection points to be determined by the City.
- North and East Perimeter lots shall be no less than 70 feet by 140 feet, with the rear 15 feet dedicated to be a natural buffer.
- Total residential Units shall be between 300 to 500 units.
- Gross Density permitted will be approximately 2.03 Residential Units per acre.
- Amenities shall be consistent with the City of Cocoa Development Order.

Seville Avenue

Bahia Street

Future Connection

Property Boundary

15' Buffer

50' Haul Road

Existing Lake

76 Lots (75' x 140')

244 Lots (75' x 100')

320 Lots Total

15' Buffer

50' Buffer

INTERSTATE 95

Existing Wetland to be Preserved

Existing Lake

Proposed 38 Acre Lake

SW Dakota Avenue

Amenity Center 3.6 Acres

Park

Osage Street / Angelica Street

528

50' Buffer

Proposed Brightline route

The Lakes of Canaveral Groves Development Plan

May 30th, 2019

North

Scale in Feet: 0' 100' 200' 400'

T:\2018\18-256\Graphics\Cocoa Borrow Pit Concept.psd

Note:
- Development to be in compliance with the Specific Agreements of the "Stipulated Settlement Agreement between Brevard County and City of Cocoa dated December 11, 2007" as it relates to Florida Space Needle, LLC (FSN).
- Final design shall comply with all applicable drainage requirements of the County and SJRWMD.
- Per terms of the Preceding Development Agreement dated August 24, 2004, between the Developer and the City, Water, Wastewater and Reclaimed Water Services (Utilities) shall be developed within the Development Plan such that said Utilities will connect with extensions by the City. Connection points to be determined by the City.
- North and East Perimeter lots shall be no less than 70 feet by 140 feet, with the rear 15 feet dedicated to be a natural buffer.
- Total residential Units shall be between 300 to 500 units.
- Gross Density permitted will be approximately 2.03 Residential Units per acre.
- Amenities shall be consistent with the City of Cocoa Development Order.

EXHIBIT "A"

Legal Description

PARCEL 1

A parcel of land lying in the North Half of Section 10, Township 24 South, Range 35 East, Brevard County, Florida, being more particularly described as follows:

Commence at the Northwest corner of Section 10, Township 24 South, Range 35 East, Brevard County, Florida, run thence South 89 degrees 57 minutes 44 seconds East, along the North line of said Section 10, a distance of 329.44 feet to the POINT OF BEGINNING; thence continue South 89 degrees 57 minutes 44 seconds East, along said North line a distance of 2266.28 feet; thence departing said North line of Section 10, South 00 degrees 32 minutes 12 seconds East, a distance of 2235.09 feet to a point on the existing Northerly right of way line of State Road No. 528 (also known as the "Bee Line Expressway", formerly known as State Road No. 524); thence South 88 degrees 36 minutes 31 seconds West (Calculated measurement) South 88 degrees 40 minutes 54 seconds West (Deed), along said existing North right of way line a distance of 454.64 feet; thence North 87 degrees 19 minutes 06 seconds West, a distance of 638.49 feet, to a point of curvature of a curve concave to the Northeast, having a radius of 900.00 feet a central angle of 31 degrees 18 minutes 50 seconds (Calculated measurement) 31 degrees 18 minutes 48 seconds (Deed), thence Northwesterly along the arc of said curve a distance of 491.88 (calculated measurement) 491.87 (Deed) feet; thence North 56 degrees 04 minutes 39 seconds West (Calculated measurement) North 56 degrees 00 minutes 19 seconds West (Deed), a distance of 398.70 (Calculated measurement) 398.75 (Deed) feet to a point of curvature of a non-tangent curve concave to the North having a radius of 969.79 feet, a central angle of 37 degrees 46 minutes 38 seconds, thence Northwesterly along the arc of said curve a distance of 639.42 feet, to a point on the East right of way line of State Road No. 9 (Interstate 95); thence North 00 degrees 11 minutes 53 seconds West, along said East right of way line of State Road No. 9 (Interstate 95), a distance of 566.36 feet; thence North 01 degrees 55 minutes 04 seconds West, a distance of 300.93; thence North 01 degrees 20 minutes 38 seconds West, a distance of 476.50 feet to the POINT OF BEGINNING.

LESS AND EXCEPT THE AREA FOR BORROW PIT NO. 19 AND HAUL ROAD AS SET FORTH IN CIRCUIT COURT MINUTE BOOK 57, PAGE 479, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, OTHER THAN THE REVERSIONARY INTEREST, DESCRIBED AS FOLLOWS:

BORROW PIT NO. 19

A parcel of land in the Northwest Quarter of Northwest Quarter of Section 10, Township 24 South, Range 35 East, described as follows:

Commence on the North boundary of said Section 10, at a point 150 feet East from the Northwest corner thereof, run thence South 00 degrees 12 minutes 38 seconds East 50 feet; thence North 89 degrees 59 minutes 22 seconds East, 499.83 feet to the Northwest corner of Borrow Pit No. 19 and the POINT OF BEGINNING; continue thence North 89 degrees 59 minutes 22 seconds East 600 feet; thence South 00 degrees 00 minutes 38 seconds East 550 feet; thence South 89 degrees 59 minutes 22 seconds West 600 feet; thence North 00 degrees 00 minutes 38 seconds West 550 feet to the POINT OF BEGINNING.

AND

HAUL ROUTE FOR BORROW PIT NO. 19

That part of the Northwest Quarter of Northwest Quarter of Section 10, Township 24 South, Range 35 East, lying South and within 50 feet of a line described as follows:

Begin at the Northwest corner of Borrow Pit No. 19 as described above, run thence South 89 degrees 59 minutes 22 seconds West 499.83 feet to the end of said line as herein described.

PARCEL 2

A parcel of land lying in the North Half of Section 10, Township 24 South, Range 35 East, Brevard County, Florida, being more particularly described as follows:

Commence at the Northwest corner of Section 10, Township 24 South, Range 35 East, Brevard County, Florida, run thence South 89 degrees 57 minutes 44 seconds East, along the North line of said Section 10, a distance of 2595.72 feet to the POINT OF BEGINNING; thence continue South 89 degrees 57 minutes 44 seconds East, along said North line of Section 10 a distance of 70.51 feet, to the North Quarter corner of Section 10; thence South 89 degrees 57 minutes 56 seconds East, along said North line of Section 10, a distance of 1926.93 feet; thence departing said North line South 00 degrees 32 minutes 12 seconds East, a distance of 2404.54 feet, to a point on a curve on the existing Northerly right of way line of State Road No. 528 (also known as the "Bee Line Expressway", formerly known as State Road No. 524); thence along said existing North right of way line and along said curve that is concave to the South, having a radius of 5879.58 feet, a central angle of 15 degrees 41 minutes 33 seconds; thence Westerly, along the arc of said curve, a distance of 1610.32 feet; thence South 88 degrees 36 minutes 31 seconds West (Calculated measurement) South 88 degrees 40 minutes 54 seconds West (Deed), a distance of 404.03 feet; thence departing said North right of way line North 00 degrees 32 minutes 12 seconds West, a distance of 2235.09 feet, to the POINT OF BEGINNING.

PARCEL 3

A parcel of land lying in the North Half Section 10, Township 24 South, Range 35 East, Brevard County, Florida, being more particularly described as follows:

Commence at the Northwest corner of Section 10, Township 24 South, Range 35 East, Brevard County, Florida, run thence South 89 degrees 57 minutes 44 seconds East, along the North line of said Section 10, a distance of 2666.23 feet to the North Quarter corner of Section 10; thence South 89 degrees 57 minutes 56 seconds East, along said North line of Section 10, a distance of 1926.93 feet, to the POINT OF BEGINNING; thence continue South 89 degrees 57 minutes 56 seconds East, along said North line of said Section 10, a distance of 738.58 feet to the Northeast corner of Section 10; thence South 00 degrees 32 minutes 12 seconds East, along the East line of said Section 10, a distance of 2602.18 feet, to a point on the existing Northerly right of way line of State Road No. 528 (also known as the "Bee Line Expressway", formerly known as State Road No. 524); thence North 74 degrees 59 minutes 21 seconds West, along said existing North right of way line, a distance of 693.63 feet, to a point of curvature of a curve concave to the South, having a radius of 5879.58 feet, a central angle of 00 degrees 42 minutes 35 seconds, thence Westerly, along the arc of said curve, a distance of 72.84 feet; thence departing said North right of way line North 00 degrees 32 minutes 12 seconds West, a distance of 2404.54 feet, to the POINT OF BEGINNING.

PARCEL 4

A parcel of land being the North 290 feet of the Southwest One Quarter of Section 12, Township 24 South, Range 35 East, Tallahassee Base Meridian, Brevard County, Florida, lying West of the Westerly right of way of Grissom Parkway, being part of the lands described in Official Records Book 549, Page 354 and being more particularly described by meets and bounds as follows:

Commence at a concrete monument occupying the Northwest corner of the Southwest One-Quarter of aforesaid Section 12; thence South 00 degrees 15 minutes 49 seconds East, along the West line of the Southwest One Quarter, a distance of 290.01 feet; thence South 89 degrees 54 minutes 34 seconds East, parallel to and 290.00 feet South of the North line of the Southwest One-quarter, a distance of 501.02 feet to a point on the Westerly right of way line of Grissom Parkway, said point lying on a radial circular curve, concave to the Northwest, having a radius of 1705.02 feet and a central angle of 11 degrees 38 minutes 02 seconds; thence Northwesterly, along said Westerly right of way line and the arc of said curve a distance of 346.20 feet (chord bearing North 32 degrees 51 minutes 07 seconds West) to the North line of the Southwest One-Quarter; thence North 89 degrees 54 minutes 34 seconds West, along said North line, a distance of 314.89 feet to the POINT OF BEGINNING.

LESS AND EXCEPT that portion conveyed to Brevard County Board of County Commissioners recorded in Official Records Book 2923, Page 1070; and in Official Records Book 2923, Page 1073, all of the Public Records of Brevard County, Florida.

PARCEL 5

The West 318 feet of the South Half of the South Half of the South Half of the North Half, LESS the North 30 feet for road and LESS the South 100 feet and the West 100 feet for canal, Section 11, Township 24 South, Range 35 East, Brevard County, Florida. Also known as Tract 6, Block 16, CANAVERAL GROVES SUBDIVISION, according to the Map thereof, as recorded in Survey Book 2, Page 621, Brevard County, Florida.

FLORIDA TODAY
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A GANNETT COMPANY

Classified Ad Receipt
(For Info Only - NOT A BILL)

Customer: CITY OF COCOA (TE)

Address: 65 STONE ST
COCOA FL 32922
USA

Ad No.: 0003601754
Pymt Method Invoice
Net Amt: $204.02

Run Times: 1

No. of Affidavits: 1

Run Dates: 06/05/19

Text of Ad:

AD#3601754, 6/5/2019
CITY OF COCOA
NOTICE OF PUBLIC HEARING
NOTICE IS HEREBY GIVEN THAT
THE COCOA CITY COUNCIL
PROPOSES TO CONSIDER THE
FOLLOWING:

PRELIMINARY AND FINAL SUBDIVISION
(ADAMSON CREEK PHASE 1B)
Approval of a Preliminary and Final Subdivision consistent with Chapter 18 Subdivisions and Appendix A Zoning of the City Code. The property owner desires to develop 94 single-family residential lots along with a stormwater tract and amenities as Phase 1B of a previously approved Planned Unit Development known as Adamson Creek. The subject property is located on the east side of Adamson Road, approximately 1.25 miles north of State Road 524 and contains +/- 27.31 acres. The property is identified by Parcel #'s: 24-35-22-25-2 and 24-35-22-25-Q.

BINDING DEVELOPMENT AGREEMENT
A Development Agreement between Virgin Trains USA Florida, LLC and the City of Cocoa to approve conceptual plans, an amenity schedule, and construction timeline for a residential subdivision, consistent with RU-1-7 zoning, and to authorize the City Manager to execute an excavation permit on the following properties, commonly known as the "Space Needle Property", to implement that Stipulated Settlement Agreement, made and entered into December 11, 2007 and recorded in the Brevard County Official Records Book 5837, Page 2226: Parcel #'s: 24-35-10-00-3 and 24-35-11-01-16-6.

CITY COUNCIL WILL CONSIDER THESE
ITEMS ON
JUNE 12, 2019
AT 6:00 P.M. OR SOON THEREAFTER IN
THE COCOA CITY HALL COUNCIL
CHAMBERS LOCATED AT
65 STONE STREET, COCOA, FL

Interested parties are hereby advised that they may appear at said meeting and be heard with respect to the application. All persons and parties are hereby advised that if they should decide to appeal any decision made by the City Council with respect to any matter considered at this hearing, they will need a record of the proceedings and that for such purpose, affected persons 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. The Local Planning Agency and City Council reserve the right to continue or postpone hearings to a date certain without re-advertising.
Information pertaining to the above may be inspected at the Planning & Zoning Division beginning the Friday before the meeting, between 8:00 a.m. and 5:00 p.m., Monday through Friday, or by phoning (321) 433-8535.
The facility where this public hearing will be held is accessible to the physically handicapped. SPECIAL ACCOMMODATIONS: Persons with disabilities needing special accommodations to participate in this proceeding should contact the City Clerk's Office at (321) 433-8484 no later than 48 hours prior to the proceeding for assistance.

CITY DRAFT 6/7/2019

THIS INSTRUMENT WAS PREPARED BY
AND SHOULD BE RETURNED TO:

Anthony A. Garganese
City Attorney of Cocoa
Garganese, Weiss, D'Agresta & Salzman, P.A.
111 N. Orange Avenue, Suite 2000
Orlando, FL 32802

(407) 425-9566

FOR RECORDING DEPARTMENT USE ONLY

SETTLEMENT IMPLEMENTATION AGREEMENT

(Residential Subdivision and Lake Amenity Excavation)

THIS SETTLEMENT IMPLEMENTATION AGREEMENT ("Agreement") is made and executed this _____ day of _____, 2019, by and between the **CITY OF COCOA,** a Florida Municipal Corporation ("City"), whose address is 65 Stone Street, Cocoa, Florida 32922, and **VIRGIN TRAINS USA FLORIDA, LLC**, a foreign limited liability company organized in the State of Delaware ("Developer"), whose address is 161 NW 6th Street, Suite 900 Miami, FL 33136.

WITNESSETH:

WHEREAS, Developer has entered into a contract to purchase approximately 246 acres, more or less, of real property located north of State Road 528 and east of Highway I-95, Cocoa, Florida, more particularly described in Section 3 and depicted in Section 8 of this Agreement ("Property"); and

WHEREAS, the Property is subject to that certain City of Cocoa/Florida Space Needle, LLC Preceding Development Agreement, dated August 24, 2004 ("Preceding Development Agreement"); and

WHEREAS, the Property is also subject to that certain Stipulated Settlement Agreement entered into in Brevard County v. City of Cocoa, Case No. 05-2005-018141, which was recorded on January 9, 2008 in Official Record Book 5837, Page 2226 of Brevard County, Florida ("Stipulated Settlement Agreement"); and

WHEREAS, Developer desires to proceed with the acquisition of the Property and permit and construct a low-density residential subdivision (approx. 320 units) on the Property consistent with the terms and conditions of the Preceding Development Agreement and the

Settlement Agreement and as more specifically required by this Settlement Implementation Agreement; and

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

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

2.0 Authority. This Agreement is entered into pursuant to the Florida Municipal Home Rule Powers Act and in furtherance of implementing the terms and conditions of the Preceding Development Agreement and Stipulated Settlement Agreement.

3.0 The Property. The real property subject to this Agreement has tax parcel identification numbers of 24-35-10-00-3 and is legally described in **EXHIBIT "A"**, attached hereto and fully incorporated herein by this reference ("Property").

4.0 Condition Precedent - Acquisition of Property by Developer. Developer represents and warrants to the City that they have entered into a binding written contract to purchase the Property ("Purchase Agreement") and that the Developer intends to expeditiously pursue the completion of the closing on the Property upon 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 Parties commitments and obligations set forth under this Agreement. 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 of the Effective Date of this Agreement ('Closing Date"). At least ten (10) days prior to the Closing Date, the Developer shall provide the City Manager and City Attorney a complete copy of the title commitment (with copies of all supporting documents) for closing on the Property so the Parties can determine whether the title commitment including the items listed on Schedule B II Exceptions causes any impediment to the completion of the subdivision of the property as depicted on the Concept Plan described in Section 8.0 of this Agreement or the excavation of the lake amenity described in the Section 10.0 of this Agreement. The City in its reasonable and sole discretion may declare any such impediment as a default and Developer shall be afforded an opportunity to cure said default under Section 29.0 of this Agreement. If Developer fails to cure said default, the City Manager, in his sole discretion and by written notice, shall have the right to terminate this Agreement. Further, if Developer 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 Closing Date for a reasonable time period not to exceed one (1) year to allow Developer to complete the closing, or terminate this Agreement.

5.0 Project Description and Requirements. Developer shall design, permit and construct one of the premier, upscale low-density residential subdivisions in the City of Cocoa. The subdivision shall be created and constructed in a single phase and consist of approximately

320 residential lots and homes with a minimum living area under air of one thousand five hundred (1,500) square feet and an average living area under air of one thousand eight hundred (1,800) square feet, private streets, ample private recreational common area green space and amenities, including a private Amenity Center and a proposed 38-acre, more or less, amenity lake (the "Project"). The Developer may construct the homes in accordance with a phasing plan approved by the City. The Project shall have a homeowner's association, which shall be responsible for maintaining the common areas in perpetuity. The Project shall be constructed in accordance with the requirements set forth in this Agreement.

6.0 Zoning Application. Developer acknowledges that the current City Comprehensive Plan, Future Land Use Map designation on the Property is very low-density residential with several areas subject to a conservation overlay designation. Developer agrees to comply with the current Future Land Use Map designation. However, the Property does not currently have a City zoning designation. Therefore, in furtherance of compliance with the City's Comprehensive Plan, Developer agrees to seek a City zoning designation for the Property of RU-1-7, Single-Family Residential District, which is consistent with the very low-density residential Future Land Use Map designation. Within thirty (30) days of the Closing Date, , unless an extension is granted by the City Manager for good cause, Developer agrees to submit a complete rezoning application with the City to request approval of a RU-1-7 zoning designation. The City and Developer will process the application through completion within one hundred eighty (180) days of the date that a complete application has been submitted to the City, unless an extension is required and granted by the City Council. The City agrees to process said application consistent with the requirements of the City Code and law. Nothing contained herein shall be construed or interpreted as requiring the City Council to approve said application. The City Council will consider and act upon said application at its discretion at appropriate public hearings pursuant to the requirements of law. If the RU-1-7 application is denied by the City Council, the Developer shall submit and process a different rezoning application consistent with the very-low density residential Future Land Use Map designation until such time as the City Council approves an acceptable City zoning designation for the Property. Should a different zoning district be approved, Developer acknowledges that a modification to this Agreement may be required to comply with such approved district's dimensional and/or open space requirements.

7.0 Location of Ingress/Egress Points – North and Southeast Corner of Project. Pursuant to the Stipulated Settlement Agreement, the Project shall have two public road access points. The northern access point shall be at the existing southern terminus of Bahia Street. However, Brevard County is required to choose between two options for public road access at the southeastern corner of the Project: (1) Osage/Angelica Street or (2) south along the 100-foot wide drainage canal right-of-way connecting to Grissom Road. The Parties acknowledge that the County's choice will result in a small variation to the subdivision layout of several of the residential lots proposed within the southeast corner of the Project. To account for this variation, the Parties have agreed to two alternative Conceptual Development Plans for the Project, taking into account both options as more specifically set forth in Section 8.0 of this Agreement. Upon the Effective Date of this Agreement, the Parties agree to submit the two alternative Conceptual Development Plans to the County and formally request, in writing, that

the County choose one of the public road access options for the southeastern corner of the Project as required by the Stipulated Settlement Agreement. The Parties also agree to cooperate with each other in promptly obtaining the County's decision on the chosen public road access option at the southeastern corner of the Project. In addition, until the selection is made by the County, the Parties cannot estimate with reasonable certainty the potential cost to the Developer of the public road access to the Property, including the cost of any required land (especially if the drainage canal route is selected), road improvements, drainage, signalization at the Grissom Parkway, lighting or other special roadway requirement. As such, upon selection by the County, the Developer shall work with the County to promptly ascertain, in writing, the estimated cost of public road access, and provide a written copy of the same to the City, no later than six (6) months from the date of the County's selection. If the County's selected option results in unreasonably excessive estimated roadway costs on the Developer that are not economically feasible for the Project to financially support, using reasonable and customary home building industry standards relative to the density of the Project, the Developer may request, in writing, to meet with the City Manager to discuss and negotiate an alternative Concept Plan and any necessary amendments to this Agreement that make the Project economically feasible by reasonable and customary home building industry standards. Any alternative Concept Plan and amendments to this Agreement shall require City Council approval.

8.0 Two Alternative Conceptual Development Plans; Subdivision and Site Plan Approval.

8.1 Depending on the public road access point chosen by the County at the southeastern corner of the Project, the Project shall be substantially developed in accordance with one of the applicable alternative conceptual development plans which are attached hereto as **EXHIBIT "B"** and incorporated herein by this reference (**"Concept Plan"**). The Concept Plan is intended to be the general blueprint which details key aspects of the future physical development of the Property. The Concept Plan shall also serve as a necessary guide for future permit applications and permitting necessary to complete the construction of the Project. Developer shall have the obligation to further submit and obtain the City's approval of a final subdivision plat, final site plan and final engineering plans (**"Final Plans"**) consistent with the Concept Plan in all material respects and in compliance with the City Code and the amenities schedule required by Section 11.0 of this Agreement. Developer acknowledges and agrees that the Concept Plan was not created with specific surveyed dimensions and that during the Final Plans process such dimensions shall be surveyed, duly engineered, and provided to the City for consideration under applicable City Codes. The Concept Plan shall be subject to reasonable adjustments at the Final Plans phase in order to bring the Project into full compliance with the City Code, and as a result, the exact location, layout and dimensions of the lots, common areas, buildings, landscaping, entrances, utilities, parking and other site improvements may vary slightly between Concept Plan approval and approval of the Final Plans. Further, additional lots greater than the number of lots depicted on the Concept Plan may be approved at the City's discretion, provided the additional lots do not reduce the proposed amount of open space and recreational areas depicted on the Concept Plan. These changes shall be allowed as long as the changes are consistent with the development standards noted in this Agreement and preserve the

general character of the development shown on the Concept Plan. The City will not unreasonably withhold approval of the Final Plans and amenities schedule.

8.2 The Parties agree that time is of the essence to complete the Project. Therefore, if the County selects public road access on Osage/Angelica Street under the Stipulated Settlement Agreement, Developer shall have eighteen (18) months after said selection to obtain Final approval of the Final Plans unless otherwise agreed by the City Council. However, if the County selects public road access south along the 100 foot-wide drainage canal right-of-way, Developer shall have eighteen (18) months from the date that the County confirms to the Parties that it has received an order of taking or otherwise acquired the necessary lands or interests to allow the public road access to obtain Final approval of the Final Plans unless otherwise agreed to by the City Council.

9.0 Public Utilities; Project Completion and Reimbursement Obligations. Pursuant to Section 4.8 of the Preceding Development Agreement, the Developer has elected not to design, permit and construct the extension of the water, sewer and reclaimed utilities to the Property ("Utilities"). Therefore, the City will design, permit and construct the extension of the Utilities up to the point(s) of connection at the boundary of the Property as determined and deemed appropriate by the City, subject to the following terms and conditions:

(1) The City will design, permit, construct and make the Utilities available to the Property no later than the date that the Developer has: (a) completed and received a final completion certificate (e.g., evidence of final written approval) from the City for all on-site infrastructure to support the Project including, but not limited to, streets, street lights, on-site utilities, sidewalks, and stormwater facilities; (b) been issued and received building permits for at least ten (10) building permits approved by the City for residential units; and (c) commenced vertical construction of the ten residential homes on the Property ("Utility Completion Date"). Prior to commencing construction of the Utilities, the City shall provide the Developer a written estimate of the Total City Utility Expenses described in Subsection (2) below.

(2) Developer shall complete construction of the Project by obtaining all required certificates of occupancies within five (5) years from the Utility Completion Date ("Project Completion Obligation"). In furtherance of the Project Completion Obligation, within ninety (90) days from the date that the City completes the Utilities, the City will deliver written notice to the Developer documenting the expenses incurred by the City to design, permit and construct the extension of the Utilities to the Property ("Total City Utility Expenses"). Within sixty (60) days of receipt of said written notice, the Developer, at its expense, shall secure the reimbursement of the Total City Utility Expenses in the event the Developer fails to fully satisfy the Project Completion Obligation by providing the City with an irrevocable stand-by letter of credit in the amount of such expenses incurred by the City. The letter of credit shall be in favor of the City and shall be issued by a bank mutually agreed to by the Parties. The letter of credit shall be in a form acceptable to the City to effectuate the reimbursement, if required due to Developer's failure to make reimbursement pursuant to Subsection (3) below. The letter of credit shall be subject to being drawn upon by the City in the event that the Developer fails to fully satisfy the Project Completion Obligation. The letter of credit shall remain in effect until

such time the City provides written notice to the Developer that they have fully satisfied the Project Completion Obligation or the City receives reimbursement pursuant to Subsection (3) below, whichever occurs sooner. However, the City agrees that Developer may proportionately reduce the value of the letter of credit by the number of certificates of occupancies granted by the City for the homes constructed in the Project. Said reduction shall occur only at twenty percent (20%) intervals of construction. The letter of credit may also be reduced on an annual basis by the amount of any home rule special assessment collected on the Property pursuant to Subsection (4) below. Any reduction of the letter of credit shall require prior written notice to the City and confirmation by the City the reduction amount is accurate.

(3) Upon failure to fully satisfy the Project Completion Obligation, the City may provide Developer written notice declaring Developer in default under this Agreement and demanding full reimbursement, within thirty (30) days, of the Total City Utility Expenses, less any credits as a result of any home rule assessments paid pursuant to Subsection (4) below, if any. If Developer fails to timely make such payment, the City shall have the right to draw upon the letter of credit required by Subsection (2) above.

(4) The City shall have the right at any time to adopt and impose a home rule special assessment on the Property, and the lots created thereon, to recover the Total City Utility Expenses. In furtherance of said right, the Developer hereby voluntarily and irrevocably consents to said assessment and that the extension of Utilities constitutes a special benefit to the Property. Developer further agrees not to directly or indirectly contest or challenge such special assessment. The assessment, if imposed by the City, will be collected and enforced in accordance with the Uniform Method of Collection and Enforcement of Non-Ad Valorem Special Assessments under Florida law. In the event that a special assessment is imposed and the City collects the full amount of the Total City Utility Expenses by assessment, the City agrees to release the letter of credit obligation in full if still in effect pursuant to Subsection (2) above.

(5) Within one hundred eighty (180) days of the County's selection of the preferred public road access described in Section 7.0, the Developer shall convey a perpetual public utilities easement upon, over and under the Property that allows the City to connect the future public utilities constructed on the Property with the Barrera Property (approx. 267 acres) located south of State Road 528. It is anticipated that the easement will be a minimum of forty (40) feet and a maximum of sixty (60) feet in width and be located generally around the area where the Developer intends to construct the conveyance system under and over State Road 528 to support the excavation of the proposed lake pursuant to Section 10.0 of this Agreement. In conjunction with the Developer's construction of the conveyance system, Developer shall fully cooperate with the City to coordinate and assist the City's plans and efforts to permit, construct and install future public utilities under State Road 528 including the installation of one or more casings, conduits or culverts to support future water, sewer and reclaimed utilities. The Parties agree that the Developer's coordination, cooperation and assistance does not constitute permission, or the requirement to gain permission, for the City to place the casing, conduit or culverts in the said area which is not owned by the Developer. The Parties acknowledge that the property is not owned by the Developer and that the City must gain the necessary permissions and permits from

the property owner (Florida Department of Transportation) and any other required regulatory entity to perform the required utility work. However, the final location and required width of the easement area shall be required to satisfy the City's reasonable and necessary future utilities needs which shall be determined by the City's Utilities Director. The easement shall be in form approved by the City Attorney. During the construction of the required utility work by the City, the City agrees to coordinate its utility activities in a manner that does not interfere with the excavation operation or the construction and operation of the proposed future Brightline rail line.

(6) The Developer shall be responsible for the design, permitting and construction of all on-site utility infrastructure required to serve the Property including, but not limited to water, sewer, reclaimed stormwater pipes, sewer lift stations and pumps, electric lines and equipment, cable lines and equipment, phone lines and equipment, gas lines and equipment and other utility pipes, lines and equipment. Should City utility policy require that certain on-site water, sewer, reclaimed or stormwater utility infrastructure be conveyed to the City upon completion by the Developer, said conveyance of any such infrastructure shall be by written bill of sale along with any warranties and maintenance bonds or letters of credit.

(7) In the event the Developer fails to convey the utility easement required by Subsection (5) above, or obtain approval of the Final Plans required by Section 8.0 of this Agreement within the time schedule set forth in Section 8.2, or if the City declares, in writing, that Developer failed to complete the lake amenity as required by Section 10.0 either upon completion of the excavation or abandonment, the City's commitment to design, permit and construct the Utilities to the Property shall terminate and thereafter, the Developer, at Developer's sole expense, shall be fully responsible for the design, permitting and construction of the Utilities to the Property in accordance with City technical specifications and standards.

10.0 Permitting and Construction of Lake Amenity. Upon the Effective Date of this Agreement, the Developer shall be allowed to submit an application with the City for an excavation permit for purposes of constructing the proposed 38-acre, more or less, lake amenity as depicted on the Conceptual Plans. The excavation permit shall be subject to Chapter 12.5 of the City Code and shall be in the form of an Excavation Permit Agreement executed by the Parties. The Excavation Permit Agreement shall be subject to the terms and conditions of this Agreement, and any other applicable state and federal laws. The commencement of excavation shall be contingent upon the Developer closing on the Property and the City's determination that the title commitment does not identify any impediment to the completion of the subdivision of the Property or the excavation of the lake amenity as provided by Section 4.0 of this Agreement. The excavation site and Property shall be maintained and secured by the Developer in a safe and sanitary condition at all times in compliance with applicable laws, administrative rules, or City Code. Notwithstanding any other terms and conditions in this Agreement and the Excavation Permit Agreement, Developer, upon completion of the excavation, shall be required to complete the lake amenity in anticipation of, or in conjunction with, the residential subdivision required by this Agreement. Should the excavation be completed before the Final Plans are approved by the City, Developer shall be required to submit, for the City's approval, plans and specifications necessary for the Developer to complete the lake amenity including, but not limited to, bank

stabilization, seeding and final contouring and shaping of the lake to support the future subdivision and accommodate the future amenities required by amenity schedule approved by the City during Final Plans approval, including landscaping, walking trails, usable open space and other pedestrian friendly recreational and beautification features. The Excavation Permit Agreement shall be in a form approved by the City Manager and City Attorney, and the City Manager is authorized to execute the Excavation Permit Agreement on behalf of the City. In order to reduce and mitigate against any potential negative impacts of the excavation on surrounding properties, the Developer agrees to employ an excavation strategy that requires the excavation materials to be removed from the Property via a conveyance system running above or underneath State Road 528 for use by the future proposed Brightline railroad route along the State Road 528 corridor. Developer has represented to the City that they are pursuing a permit from the Florida Department of Transportation to employ this excavation strategy subject to the City permitting the excavation. However, during the excavation, access to and from the Property by excavation workers and to receive delivery of equipment and materials for the excavation shall be allowed via the existing public road network as specified in the excavation permit agreement. Notwithstanding the foregoing, should Developer choose to forego or substantially reduce the scope and size of the excavation, Developer acknowledges that a modification to this Agreement may be required by the City to at least modify the Concept Plan to incorporate more upland buildable areas and recreational space.

11.0 <u>Other Project Recreational Amenities and Enhancements.</u> As a condition of approval of the Final Plans, Developer shall design, permit and construct, at its own expense, the following minimum schedule of Project amenities and enhancements in scope and scale to adequately support the number of residential lots required for the Project:

(1) Central Amenity Center (community clubhouse) with a feature pool, open space area with a community pavilion (picnic tables and grills) along with a state-of-the-art modern tot-lot and playground. The City prefers that the tot-lot and playground be adequately covered from sun exposure by a playground UV rated canopy and shade trees and that the Developer shall seriously evaluate and consider providing such covering when the amenities schedule is approved during Final Plans approval.

(2) Multi-use sports field.

(3) Multipurpose courts (convertible for volleyball, basketball, pickleball and/or tennis).

(4) Smaller common open space lots and areas throughout the community that include small playgrounds and areas with benches. The City prefers that the playground and bench areas be adequately covered from sun exposure by a UV rated playground or other canopy and shade trees and that the Developer shall seriously evaluate and consider providing such covering when the amenities schedule is approved during Final Plans approval.

(5) Connected multipurpose trail throughout the community that connects to all recreational common open spaces including the existing lakes and lake amenity.

(6) A streetscape design deemed acceptable by the City, which emphasizes sidewalks, connectivity within the community, tree-lined streets, and decorative street lights to add appeal and security and decorative signage.

(7) Decorative and landscaped entrance features to the Project deemed acceptable to the City which may include a restricted gated entry feature.

(8) The City prefers that the residential driveways shall be constructed of stone or brick pavers, or stamped and stained concrete. The Developer shall seriously evaluate and consider providing such driveways during the approval of Final Plans.(9) All utilities constructed on the Property including, but not limited to, electric, water, sewer, reclaimed water, cable, phone, fiber optics, natural gas and other similar kinds of utilities to service the Property shall be constructed underground unless otherwise necessary to be above ground and approved by the City. Each lot and all common landscaped areas shall be equipped with in-ground reclaimed water irrigation systems to maximize the use of the City's reclaimed water service.

(10) The Project shall incorporate the use of energy efficient lighting systems, insulation and ENERGY STAR rated windows, low-flow water fixtures, modern heat pumps, energy efficient HVAC systems, and optional roof top solar panels.

Developer may also propose additional amenities for the City's consideration and approval. All Project amenities and enhancements shall be completed and finally accepted by the City in accordance with the written amenities construction schedule approved by the City in conjunction with the approval of the Final Plans. Upon approval, the written amenities construction schedule shall automatically be deemed incorporated within and made a part of this Agreement. All Project amenities and enhancements shall be maintained in perpetuity by the homeowner's association required to be created by this Agreement.

12.0 Building Elevations and Floor Plans. As condition of approval of the Final Plans, the Developer shall submit to the City for final approval building elevations and related floor plans for the proposed homes and Central Amenity Center (community clubhouse) to be constructed on the Property. Upon approval by the City, the building elevations and related floor plans shall be deemed incorporated herein by this reference and said buildings shall be constructed substantially in accordance with the approved building elevations and floor plans. Further, other aspects of the building façade and roof lines, color scheme, and architectural features depicted on the building may have to be adjusted during the City's final review and administrative approval procedures to issue a building permit. The design of the homes and Central Amenity Center (community clubhouse) shall create one aesthetically pleasing and unified Project.

13.0 Homeowner's Association. In conjunction with the approval of the final subdivision for the Project, the Developer shall create a mandatory homeowner's association to govern the Project in accordance with Chapter 720, Florida Statutes. The association shall also be governed by the covenants and restrictions created and recorded against the Property by the Developer as required by this Agreement. A copy of the association's articles of incorporation, by-laws and recorded covenants and restrictions shall be provided to the City prior to the

approval of the final subdivision. The homeowner's association shall be responsible for the perpetual maintenance and operation of all common areas and amenities constructed for the Project, shall govern the Project in accordance with the requirements of Florida law including the recorded covenants and restrictions and by-laws of the association, have the power to levy assessments and collect HOA fees, which are used to pay for the maintenance of the community common areas and any other designated areas that are detailed in the covenants and deeds applicable to the Project.

14.0 Model Homes. The City agrees to allow the Developer or Developer's chosen homebuilder(s) (hereinafter referred to in this Section as "Builder") for the Project to construct both a sales office and up to four (4) model homes to be used for the customary temporary marketing and sales activities of the Builder. The Builder shall have the right to utilize two garages in two model home units as the temporary sales office. The City represents that such marketing and sales activities shall be permitted through buildout of the Project. The City agrees to permit early construction of the model homes prior to or after plat approval, provided that, prior to construction of the model homes, stabilized access to the model home lots and adequate means of fire protection from a City-approved source of water are completed and the following conditions, which are deemed acceptable to Builder, are adhered to:

(a) The model homes shall remain under Builder's ownership and control until such time as a final certificate of occupancy for each model home unit is issued under the conditions set forth below. In other words, the Builder shall not contract for sale, sell, or lease any of the individual model home units until such time as the City issues a final certification of occupancy for each model home unit.

(b) The model homes shall be constructed on existing or proposed lots approved by the City, and any associated parking, pedestrian activity and other activities conducted by sales staff or the general public shall be adequately segregated from construction activities to ensure safety. Parking for the model homes shall be provided in a temporary parking lot to be located in an area approved by the City, which may consist of a mulch surface. Prior to a final certificate of occupancy being issued on the last remaining model home, the mulch surface shall be removed and the area shall either be prepared for home construction, open space or recreational amenity or seeded.

(c) The model sales office shall comply with all applicable state and city regulations regarding accessibility. In addition, Builder shall provide a minimal level of access to all model homes for potential homebuyers with disabilities by providing physical access (via ramp or lift) to the primary level each model home and making photographs of other levels within each home available to the customer.

(d) Prior to construction, the model homes shall be duly permitted by the City in accordance with the City's Code. As part of the building permit application, the Builder shall submit, along with all construction plans for the units, a duly certified boundary survey which shall depict the location and legal description of each individual model lot. The Builder acknowledges and agrees that this legal description is intended to coincide with the eventual

location of the lots as depicted and legally described on the final plat. The Builder shall assume full and complete responsibility in the event that said legal descriptions do not conform to the lot lines required by the City in the final plat. The Builder fully understands the construction of model homes before final plat is approved by the City may pose a risk to the Builder if the approved plat is not consistent with the layout of model home on the subject property, and that such risk may require modification or removal of the model home based on the approved plat before a final certificate of occupancy can be issued for the model home. The Builder agrees to defend, indemnify, and hold harmless the City from and against any and all damages, losses or claims arising from the layout and construction of the model home under this Agreement prior to preliminary and final plat approval as provided further in Section 32.0 of this Agreement.

(e) At such time as the City Building Official completes and approves a final inspection of the model homes, the City will issue a temporary certificate of occupancy. Said temporary certificate of occupancy shall be issued for each model home as a whole. Occupancy of the model home units shall be limited to the sales and marketing efforts for the Project until a final certificate of occupancy is issued for such model home units. It is intended that the model homes can be shown by sales staff to prospective buyers as long as the Building Official has issued the temporary certificate of occupancy and the model is not staffed continuously.

(f) Following completion of all required plat improvements, at the request of the Builder or at such time as the Project development is completed, whichever occurs sooner, the model home units shall be converted into permanent residential units and the City shall issue final certificates of occupancy for each model home unit, provided, that the City Building Official determines that such units are suitable for permanent residential occupancy and in compliance with the City Codes.

Nothing in this Section shall cause to limit the number of inventory homes (pre-sale, spec homes) that may be constructed on the Property. Violation of this Section will also constitute a violation of the City Code of Ordinances, and the provisions of this Section may also be enforced as provided therein. Any Builder desiring to construct a model home pursuant to this Section, other than Developer, shall be provided a copy of this Section by the Developer if Builder is not the owner of the subject property on which the model home will be constructed and shall automatically be deemed to have agreed to the terms and conditions herein as a condition of the issuance of a building permit by the City even if they are not the owner or have not consented, in writing, to the term and conditions of this Section.

15.0 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.

16.0 **Successors and Assigns**. This Agreement shall automatically be binding upon and shall inure to the benefit of the City and Developer and their respective successors and assigns. The terms and conditions of this Agreement similarly shall be binding upon the Property and shall run with title to the same upon being duly recorded against the Property by the City.

17.0 **Applicable Law**. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

18.0 **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.

19.0 **Entire Agreement; Exhibits; Conflicts**. This Agreement, the Preceding Agreement and Stipulated Settlement Agreement and all attached exhibits thereto supersede any other agreement, oral or written, regarding the development of 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. To the extent that a conflict exists between provisions of this Agreement and the Preceding Agreement, the conflicting provisions of this Agreement shall apply. However, to the extent a conflict exists between the provisions of this Agreement and the Stipulated Settlement Agreement, the conflicting provisions of the Stipulated Settlement Agreement shall apply.

20.0 **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.

21.0 **Effective Date**. This Agreement shall become effective upon approval by the City Council and execution of this Agreement by both parties hereto.

22.0 **Recordation**. Upon full execution by the Parties and the closing required by Section 4.0 of this Agreement, this Agreement shall be recorded in the Public Records of Brevard County, Florida by the City.

23.0 **Relationship of the Parties**. The relationship of the Parties to this Agreement is contractual and Developer and any Builder described in Section 13.0 are independent contractors and not an agent of the City. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the Parties or any such Builder, and neither party nor Builder 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.

24.0 **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).

25.0 **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.

26.0 **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.

27.0 **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.

28.0 **Specific Performance**. Strict compliance shall be required with each and every provision of this Agreement. The Parties agree that failure to perform the obligations provided by this Agreement shall result in irreparable damage and that specific performance of these obligations may be obtained by a suit in equity.

29.0 **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.

30.0 **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.

31.0 **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, an action for specific performance and/or injunctive relief. Prior to any party filing any action or exercising any remedy or right expressly provided in this Agreement 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 forty-five (45) day (or such other time mutually agreed to in writing by the Parties) opportunity in which to cure the default to the reasonable satisfaction of the non-defaulting party prior to filing said action.

32.0 Termination. Except as expressly provided in this Agreement, this Agreement may only be terminated by mutual written consent of the Parties. If the Parties terminate this Agreement and the Agreement was recorded in the Official Records of Brevard County, the City shall record a notice of termination against the Property in the Official Records of Brevard County, Florida.

33.0 Indemnification and Hold Harmless. Developer shall be solely responsible for designing, permitting, constructing, operating and maintaining this Project. As such, in consideration of the rights and benefits afforded to and accepted by the Developer hereunder, Developer hereby agrees to indemnify, release, and hold harmless the City and its councilmembers, 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. This indemnification shall survive the termination of this Agreement.

34.0 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 unforeseeable or unpredictable event or condition beyond the control of such party, including, but not limited to, acts of God, acts of government authority (other than the City's own acts), acts of public enemy or war, riots, civil disturbances, power failure, shortages of labor or materials, injunction or other court proceedings beyond the control of such party, severe adverse weather conditions or a United States economic recession declared by the National Bureau of Economic Research that temporarily makes it commercially impractical for Developer to complete the construction of the Project and sell the required residential homes ("Uncontrollable Event"), then, notwithstanding any provision of this Agreement to the contrary except as expressly provided below, 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 impacted party shall give notice to the other party, stating the period of time the occurrence is expected to continue, and he extended time period shall be agreed to in writing by the Parties and said agreement shall not be unreasonably withheld by either party. The impacted party shall use diligent efforts to end the failure or delay and ensure the effects of such force majeure event are minimized. The impacted party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. A force majeure event shall not excuse the Developer's requirement to

provide and maintain in effect a letter of credit under Section 9.0 of this Agreement or a performance and maintenance bond required by City Code. In addition, a United States economic recession force majeure event shall not excuse Developer from completing the Final Plans in accordance with the time periods required by Section 8.0 of this Agreement. The Parties agree that the provisions of Section 252.363, Florida Statutes do not apply to this Agreement or are hereby waived to the extent that such provisions are deemed to apply. Notwithstanding the aforesaid, the Parties may extend any Time Period as expressly provided elsewhere in this Agreement or as otherwise mutually agreed to in writing.

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

CITY OF COCOA

By: _____
Jake Williams Jr., Mayor

ATTEST:

By: _____
Carie Shealy, MMC, City Clerk

APPROVED AS TO FORM AND LEGALITY
For the use and reliance of the City of Cocoa, Florida only.

CITY SEAL

Date: _____
By: _____
Anthony A. Garganese, City Attorney for the City of Cocoa, Florida

Signed, sealed and delivered in the presence of the following witnesses:

VIRGIN TRAINS USA FLORIDA, LLC

_____
Print name and title: _____

_____
Signature of Witness

_____
Printed Name of Witness

Date: _____

_____
Signature of Witness

_____
Printed Name of Witness

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by_____, the _____of_____**.,** a_____. He 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: _____

DEVELOPER IS HEREBY ADVISED THAT SHOULD DEVELOPER FAIL TO FULLY EXECUTE, AND DELIVER TO THE CITY, THIS AGREEMENT WITHIN THIRTY (30) DAYS FROM THE DATE THAT THE CITY COUNCIL APPROVES THIS AGREEMENT, THIS AGREEMENT SHALL AUTOMATICALLY BE DEEMED NULL AND VOID.

Exhibits:

A – Legal Description
B – Two Alternative Concept Plans

CFN 2008005069, OR BK 5837 Page 2226, Recorded 01/09/2008 at 04:24 PM, Scott Ellis, Clerk of Courts, Brevard County

1/20

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT IN AND FOR BREVARD COUNTY, FLORIDA

BREVARD COUNTY, Florida,
a Political Subdivision of the
State of Florida,

Case No: 05-2005-018141-XXXX-XX

Petitioner,

vs.

CITY OF COCOA, Florida,
a Municipal Corporation,

Respondent,

_____/

FILED IN VIERA-A
CLERK OF CIR. CT.
BREVARD CO. FL.
2008 JAN -9 A 10: 29
SCOTT ELLIS

Not Suitable for Imaging

STIPULATED SETTLEMENT AGREEMENT

This Stipulated Settlement Agreement ("Settlement" or "Agreement") is made and entered into this 11th day of December, 2007 by and among (i) Brevard County, Florida, a political subdivision of the State of Florida (hereinafter the "County"), (ii) the City of Cocoa, Florida, a municipal corporation, (hereinafter the "City"), (iii) Florida Space Needle, LLC (hereinafter "FSN") and Barrera Shores, LLC, formerly known as Hagen-Nicholson Properties, LLC (hereinafter "Barrera"). Collectively all parties will be referred to herein as the "Parties".

RECITALS

1. On August 24, 2004, pursuant to Ordinance No. 31-2004, the City annexed 757.29 acres of real property into the municipal boundaries of the City.

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Among other property, the annexation included real property owned by FSN and by Barrera.

2. On September 23, 2004, Petitioner filed a Petition for Writ of Certiorari challenging the City's annexation.

3. Since that time, the Parties have litigated numerous issues before various judicial and administrative tribunals.

4. Currently, the only active matter remaining before the Courts is this circuit court proceeding (the "Lawsuit").

5. All Parties now wish to resolve all pending matters in the above-styled case.

ACCORDINGLY, in consideration of the above-stated Recitals, the receipt and sufficiency of which are acknowledged by the Parties hereto, the Parties (and those related individuals and entities joining and consenting) agree as follows:

TERMS

SECTION 1. RECITALS. The above Recitals are true and correct and are hereby incorporated in this Agreement as a material part hereof.

SECTION 2. SUBMISSION OF ORDER. Thereafter, the Parties to this Stipulated Settlement Agreement will submit to the Court a Joint Motion and Order approving this Stipulated Settlement Agreement, a copy of which Joint Motion and agreed Order are attached to this Agreement as a material part, upon its full execution by all Parties.

SECTION 3. SPECIFIC AGREEMENTS. The Parties agree as follows:

(1) The City will limit development on the 267 ± acre parcel of property owned by Barrera, a legal description of which is provided as Exhibit "B"

attached to this Agreement ("Barrera's Property"), to 600 total residential units. The gross density permitted by the City for Barrera's property will be approximately 2.3 residential units per acre.

(2) The Parties agree that all units shall be to a minimum of 1,500 square feet under air conditioning.

(3) Barrera has submitted a new bubble plan which depicts a 600 unit development with open space and conservation area being located on the Eastern and Southern portion of the Barrera property, so as not to create an adverse affect on the adjoining neighbors (Exhibit "B"). Barrera Shores will be substantially developed in accordance with said bubble plan subject to the improvements directed by the City of Cocoa. The bubble plan is attached hereto as Exhibit "B-1."

(4) The City will require the size of FSN's perimeter lots located on the North and located on the East perimeter of the parcel of property described in Exhibit "A" to be no less than 70 feet by 140 feet, with the rear 15 feet of the lot dedicated to be a natural buffer. The City will limit development on the 246 $\pm$ acre parcel of property owned by FSN, a legal description of which is provided as Exhibit "A" attached to this Agreement ("FSN Property"), to between 300 to 500 total residential units. The gross density permitted by the City for this FSN Property will be approximately 2.03 residential units per acre.

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(5) The Parties agree that ingress/egress previously proposed for Friday Road, has been eliminated and the proposed ingress/egress may now be used as a park or for other recreational facilities as may be directed by the City of Cocoa. Said area will be buffered from the adjacent properties. The Parties agree that location of the ingress/egress points for the northern parcel shall be identified on Exhibit "C" attached to and incorporated in this Agreement. With regard to whether public road access from the northern parcel east to Grissom shall be via Osage / Angelica or south along the 100-foot wide drainage canal right-of-way ("Canal R/W"), the County shall have the option of choosing which access shall be acceptable. If the County determines that public road access shall be along the Canal R/W instead of via Osage / Angelica, then the County agrees to use its power of eminent domain to condemn or otherwise acquire any lands or interests in land within the Canal R/W depicted on Exhibit "C" so as to enable FSN to connect the northern parcel to Grissom Road. FSN agrees to pay all the County's reasonable costs in acquiring said lands or interests in land and the cost of constructing a public road access to the FSN property over that land and canal right of way.

(6) FSN and Barrera shall provide secondary access for their respective properties at their expense. Barrera agrees that the intersection of James Road and Friday Road will be redesigned and reconstructed to accommodate the

increased traffic. Under the County's transportation impact fee ordinance, these improvements will be considered site-related improvements and, therefore, are not eligible for any transportation impact fee credits.

(7) James Road classification shall be modified and Barrera will pay for construction of traffic calming devices along James Road. Input from property owners along James Road will be solicited by the County regarding the location and placement of traffic calming devices. All traffic calming devices along James Road shall be constructed and completed following land clearing but prior to any further construction or site work being completed.

(8) The City agrees to enter into an interlocal agreement with the County, to be negotiated by both parties in good faith and upon mutually acceptable terms, whereby the MSTU revenues derived from the developments will be utilized in the immediate area on County owned and maintained facilities directly affected by the developments, specifically, Cox Road, James Road, Friday Road, the County owned and maintained portion of Westminster Road, and associated intersections and drainage functions.

(9) It is understood that Barrera may provide or contribute intersection improvements at Friday Road and State Road 524, together with improvements to the North and South bound exit ramps at State Road 524, as

directed by the County. These improvements are not considered site related improvements and therefore are eligible for transportation impact fee credits.

(10) The City shall determine appropriate locations for the installation of all water and sewer infrastructure. Homes adjacent to this infrastructure that already have installed a functioning septic system shall not be required to connect to the City's system until such time as the septic system may fail.

(11) Barrera and FSN shall comply with all applicable drainage permitting requirements of the County and/or the St. John's River Water Management District to the extent required by law.

SECTION 4. COOPERATION. Neither Party nor entity referenced above shall take any action or refrain from taking any action in a manner which is inconsistent with the intent and spirit of this Stipulated Settlement Agreement. The City and County agree to use best efforts to process and permit approvals reasonably necessary to implement the development plans of FSN and Barrera consistent with the terms of this Stipulated Settlement Agreement.

SECTION 5. EFFECTIVE DATE. This Stipulated Settlement Agreement shall be effective upon the entry of an Order of the Court.

SECTION 6. DISMISSAL OF PROCEEDINGS. That all legal proceedings between the Parties and entities referenced above shall, if still active,

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be dismissed upon entry of the Order, each party to pay its own attorney's fees and costs. Within three (3) business days after the full execution of this Agreement and the date that the Court enters an Order approving this Agreement and Dismissing the Action with Prejudice, the Parties, through their counsel, shall cause to be filed in the Circuit Court of Brevard County, Florida, a Joint Stipulation for Dismissal, with prejudice, relative to any other litigation or any administrative proceedings that may be pending between or among the Parties.

SECTION 7. ENFORCEABLE AGREEMENT. The Parties agree that this Agreement is valid, binding, and enforceable, and each Party warrants to all other Parties that it has the requisite power and authority to be bound by this Agreement. The Parties agree that they shall not challenge in any forum the validity or enforceability of this Agreement.

SECTION 8. RELEASES. The Parties on their own behalf and on behalf of their past and present agents, assigns, and any all persons or entities claiming through them or under them, hereby each release and forever discharge the other and their respective past, present and future parent corporations, subsidiaries, affiliates, shareholders, agents, employees, directors, officers, servants, assigns, insurers, partners, attorneys, and predecessors and successors, officers, directors, and elected officials ("Released Parties"), from any and all claims and demands, actions and causes of action, at law or in equity, known and unknown, which either

now owns or holds, or has at any time heretofore owned or held against the other or any of the Released Parties, including, but not limited to, any and all claims, demands or causes of action of any kind whatsoever arising out of the above-styled causes.

SECTION 9. VENUE. The venue for all lawsuits brought by any of the Parties hereto involving any dispute, controversy, or claim arising out of or in connection with this Agreement shall be brought in the Circuit Court of Brevard County, Florida.

SECTION 10. BINDING UPON SUCCESSORS. This Stipulated Settlement Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, heirs, parent corporations, subsidiaries, affiliates, representatives, and assigns. Any party may record this document.

IN WITNESS WHEREOF, the Parties hereto have executed this Stipulated Settlement Agreement on the date first above written.

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ATTEST:

Joan Clark, City Clerk

Date:

December 11, 2007

"CITY"

CITY OF COCOA, FLORIDA

By: Michael C. Blake, Mayor

10

"COUNTY"

BREVARD COUNTY, FLORIDA

By: Jackie Colon

Name: Jackie Colon

Title: Chairperson

As approved by the Board 11-13-07

Print Name: Scott Ellis

Clerk

Print Name: _____

APPROVED AS TO FORM AND LEGALITY.

_____

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 13 day of November, 2007 by Jackie Colon, the Chairperson of Brevard County, on behalf of Brevard County, He is personally known to me and did not take an oath.

Signature of Notary Public

Jennifer Jones

Print Notary Name

My Commission Expires: _____

Commission No.: _____

☒ Personally known, or

☐ Produced Identification

Type of Identification Produced

AFFIX NOTARY STAMP

Jennifer Jones
Commission #DD329614
Expires: Jul 31, 2008
Bonded Thru
Atlantic Bonding Co., Inc.

11

"FSN"

FLORIDA SPACE NEEDLE, LLC

Donna C. Darter

Print Name: DONNA C. DARTER

Nicholas G. Levato

Print Name: NICHOLAS G. LEVATO

By: Kenneth E. Allen

Name: Kenneth E. Allen

Title: President

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 26th day of DECEMBER, 2007 by KENNETH E. ALLEN, the PRESIDENT of Florida Space Needle, LLC on behalf of Florida Space Needle, LLC. He is personally known to me and did not take an oath.

Donna C. Darter
Signature of Notary Public

DONNA C. DARTER
Print Notary Name
My Commission Expires:_____
Commission No.:_____
☒ Personally known, or
☐ Produced Identification
Type of Identification Produced

AFFIX NOTARY STAMP

NOTARY PUBLIC-STATE OF FLORIDA
Donna C. Darter
Commission # DD406637
Expires: APR. 25, 2009
Bonded Thru Atlantic Bonding Co., Inc.

12

"BARRERA"

BARRERA PROPERTIES, LLC

By: Terry D. Hagen

Name: TERRY D. HAGEN

Title: MANAGER

Print Name: MICHAEL D. JONES

Jean Hovey

Print Name: Jean Hovey

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 3rd day of January, 2008 by Terry D. Hagen the Manager of Barrera Properties, LLC on behalf of Barrera Properties, LLC. He is personally known to me and did not take an oath.

NOTARY PUBLIC-STATE OF FLORIDA
Jean M. Hovey
Commission # DD509536
Expires: FEB. 03, 2010
Bonded Thru Atlantic Bonding Co., Inc.

Jean M. Hovey
Signature of Notary Public

Jean M. Hovey
Print Notary Name

My Commission Expires:_____

Commission No.:_____

AFFIX NOTARY STAMP

☒ Personally known, or

☐ Produced Identification

Type of Identification Produced

13

THOMAS A. CLOUD
Florida Bar Number: 293326
HEATHER M. BLOM-RAMOS
Florida Bar Number: 588601
GRAYROBINSON, P.A.
301 East Pine St. Ste. 1400
Orlando, Florida 32801
407-843-8880
407-244-5690 Facsimile
Counsel for Florida Space Needle, LLC

SCOTT KNOX
Florida Bar Number: 211291
OFFICE OF THE COUNTY ATTORNEY
2725 Judge Fran Jamieson Way
Building C
Viera, Florida 32940
321-633-2090
321-633-2096 Facsimile
Counsel for Petitioner
Brevard County

ANTHONY GARGANESE
Florida Bar Number: 988294
BROWN GARGANESE WEISS & D'AGRESTA
Two Landmark Ctr, Suite 660
225 E. Robinson Street
Orlando, Florida 32801
407.425.9566
407.425.9596 Facsimile
Counsel for Respondent
City of Cocoa

MICHAEL D. JONES
Florida Bar Number: 137608
MICHAEL D. JONES & ASSOCIATES, P.A.
P.O. Box 196130
Winter Springs, FL 32719-6130
407-695-7666
407-695-7157 (Facsimile)
Counsel for Barrera Properties, LLC

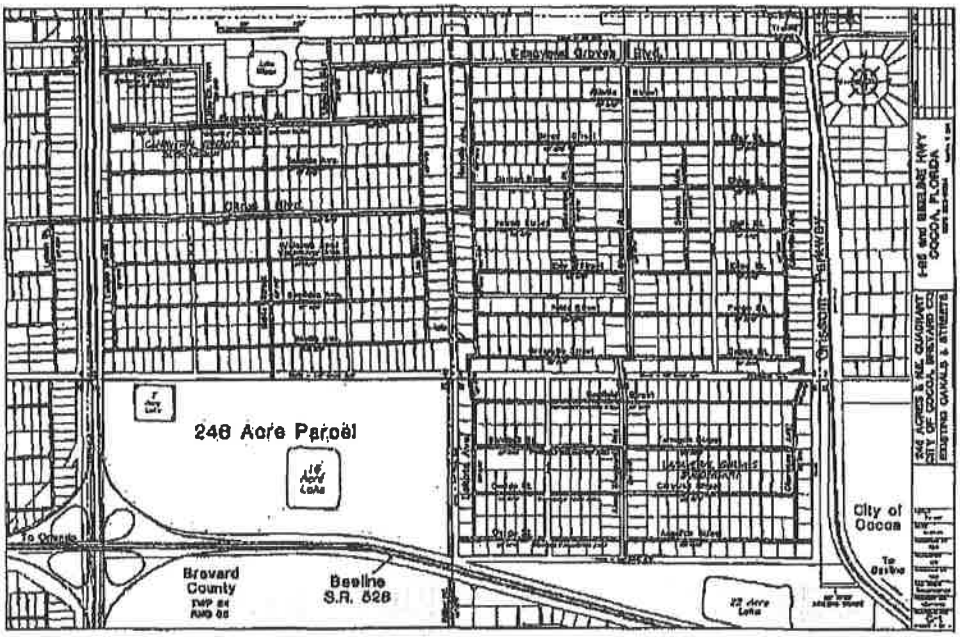

248 Acre Parcel
Brevard County
Beeline S.R. 528
City of Cocoa
To Orlando
To Beeline

EXHIBIT A

15

Fidelity National Title
Insurance Company

Title No. 45441-CD05-104513
Agent ID: FL-2264
Agent File No. FSN/Fairwinds
Policy Jacket No. 1482-5689

EXHIBIT A

PARCEL 1

A parcel of land lying in the North Half of Section 10, Township 24 South, Range 35 East, Brevard County, Florida, being more particularly described as follows:

Commence at the Northwest corner of Section 10, Township 24 South, Range 35 East, Brevard County, Florida, run thence South 89 degrees 57 minutes 44 seconds East, along the North line of said Section 10, a distance of 329.44 feet to the POINT OF BEGINNING; thence continue South 89 degrees 57 minutes 44 seconds East, along said North line a distance of 2266.28 feet; thence departing said North line of Section 10, South 00 degrees 32 minutes 12 seconds East, a distance of 2235.09 feet to a point on the existing Northerly right of way line of State Road No. 528 (also known as the "Bee Line Expressway", formerly known as State Road No. 524); thence South 88 degrees 36 minutes 31 seconds West (Calculated measurement) South 88 degrees 40 minutes 54 seconds West (Deed), along said existing North right of way line a distance of 454.64 feet; thence North 87 degrees 19 minutes 06 seconds West, a distance of 638.49 feet, to a point of curvature of a curve concave to the Northeast, having a radius of 900.00 feet a central angle of 31 degrees 18 minutes 50 seconds (Calculated measurement) 31 degrees 18 minutes 48 seconds (Deed), thence Northwesterly along the arc of said curve a distance of 491.88 (calculated measurement) 491.87 (Deed) feet; thence North 56 degrees 04 minutes 39 seconds West (Calculated measurement) North 56 degrees 00 minutes 19 seconds West (Deed), a distance of 398.70 (Calculated measurement) 398.75 (Deed) feet to a point of curvature of a non-tangent curve concave to the North having a radius of 969.79 feet, a central angle of 37 degrees 46 minutes 38 seconds, thence Northwesterly along the arc of said curve a distance of 639.42 feet, to a point on the East right of way line of State Road No. 9 (Interstate 95); thence North 00 degrees 11 minutes 53 seconds West, along said East right of way line of State Road No. 9 (Interstate 95), a distance of 566.36 feet; thence North 01 degrees 55 minutes 04 seconds West, a distance of 300.93; thence North 01 degrees 20 minutes 38 seconds West, a distance of 476.50 feet to the POINT OF BEGINNING.

LESS AND EXCEPT THE AREA FOR BORROW PIT NO. 19 AND HAUL ROAD AS SET FORTH IN CIRCUIT COURT MINUTE BOOK 57, PAGE 479, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, OTHER THAN THE REVERSIONARY INTEREST, DESCRIBED AS FOLLOWS:

BORROW PIT NO. 19

A parcel of land in the Northwest Quarter of Northwest Quarter of Section 10, Township 24 South, Range 35 East, described as follows:

Commence on the North boundary of said Section 10, at a point 150 feet East from the Northwest corner thereof, run thence South 00 degrees 12 minutes 38 seconds East 50 feet; thence North 89 degrees 59 minutes 22 seconds East, 499.83 feet to the Northwest corner of Borrow Pit No. 19 and the POINT OF BEGINNING; continue thence North 89 degrees 59 minutes 22 seconds East 600 feet; thence South 00 degrees 00 minutes 38 seconds East 550 feet; thence South 89 degrees 59 minutes 22 seconds West 600 feet; thence North 00 degrees 00 minutes 38 seconds West 550 feet to the POINT OF BEGINNING.

AND

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Fidelity National Title
Insurance Company

Title No. 45441-CD05-104513
Agent ID: FL-2264
Agent File No. FSN/Fairwinds
Policy Jacket No. 1482-5689

HAUL ROUTE FOR BORROW PIT NO. 19

That part of the Northwest Quarter of Northwest Quarter of Section 10, Township 24 South, Range 35 East, lying South and within 50 feet of a line described as follows:

Begin at the Northwest corner of Borrow Pit No. 19 as described above, run thence South 89 degrees 59 minutes 22 seconds West 499.83 feet to the end of said line as herein described.

PARCEL 2

A parcel of land lying in the North Half of Section 10, Township 24 South, Range 35 East, Brevard County, Florida, being more particularly described as follows:

Commence at the Northwest corner of Section 10, Township 24 South, Range 35 East, Brevard County, Florida, run thence South 89 degrees 57 minutes 44 seconds East, along the North line of said Section 10, a distance of 2595.72 feet to the POINT OF BEGINNING; thence continue South 89 degrees 57 minutes 44 seconds East, along said North line of Section 10 a distance of 70.51 feet, to the North Quarter corner of Section 10; thence South 89 degrees 57 minutes 56 seconds East, along said North line of Section 10, a distance of 1926.93 feet; thence departing said North line South 00 degrees 32 minutes 12 seconds East, a distance of 2404.54 feet, to a point on a curve on the existing Northerly right of way line of State Road No. 528 (also known as the "Bee Line Expressway", formerly known as State Road No. 524); thence along said existing North right of way line and along said curve that is concave to the South, having a radius of 5879.58 feet, a central angle of 15 degrees 41 minutes 33 seconds; thence Westerly, along the arc of said curve, a distance of 1610.32 feet; thence South 88 degrees 36 minutes 31 seconds West (Calculated measurement) South 88 degrees 40 minutes 54 seconds West (Deed), a distance of 404.03 feet; thence departing said North right of way line North 00 degrees 32 minutes 12 seconds West, a distance of 2235.09 feet, to the POINT OF BEGINNING.

PARCEL 3

A parcel of land lying in the North Half Section 10, Township 24 South, Range 35 East, Brevard County, Florida, being more particularly described as follows:

Commence at the Northwest corner of Section 10, Township 24 South, Range 35 East, Brevard County, Florida, run thence South 89 degrees 57 minutes 44 seconds East, along the North line of said Section 10, a distance of 2666.23 feet to the North Quarter corner of Section 10; thence South 89 degrees 57 minutes 56 seconds East, along said North line of Section 10, a distance of 1926.93 feet, to the POINT OF BEGINNING; thence continue South 89 degrees 57 minutes 56 seconds East, along said North line of said Section 10, a distance of 738.58 feet to the Northeast corner of Section 10; thence South 00 degrees 32 minutes 12 seconds East, along the East line of said Section 10, a distance of 2602.18 feet, to a point on the existing Northerly right of way line of State Road No. 528 (also known as the "Bee Line Expressway", formerly known as State Road No. 524); thence North 74 degrees 59 minutes 21 seconds West, along said existing North right of way line, a distance of 693.63 feet, to a point of curvature of a curve concave to the South, having a radius of 5879.58 feet, a central angle of 00 degrees 42 minutes 35 seconds, thence Westerly, along the arc of said curve, a distance of 72.84 feet; thence departing said

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Fidelity National Title
Insurance Company

Title No. 45441-CD05-104513
Agent ID: FL-2264
Agent File No. FSN/Fairwinds
Policy Jacket No. 1482-5689

North right of way line North 00 degrees 32 minutes 12 seconds West, a distance of 2404.54 feet, to the POINT OF BEGINNING.

PARCEL 5

The West 318 feet of the South Half of the South Half of the South Half of the North Half, LESS the North 30 feet for road and LESS the South 100 feet and the West 100 feet for canal, Section 11, Township 24 South, Range 35 East, Brevard County, Florida. Also known as Tract 6, Block 16, CANAVERAL GROVES SUBDIVISION, according to the Map thereof, as recorded in Survey Book 2, Page 621, Brevard County, Florida.

EXHIBIT "B"

BARRERA PROPERTY

A PARCEL OF LAND LYING IN SECTION 10, TOWNSHIP 24 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTH 1/4 CORNER OF SECTION 10, TOWNSHIP 24 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA, RUN THENCE NORTH 00 DEGREES 15 MINUTES 39 SECONDS WEST, A DISTANCE OF 50.05 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF JAMES ROAD, A 50 FOOT RIGHT OF WAY PER OFFICIAL RECORDS BOOK 783, PAGE 918 AND THE POINT OF BEGINNING; THENCE ALONG SAID RIGHT OF WAY LINE, NORTH 89 DEGREES 44 MINUTES 06 SECONDS WEST, A DISTANCE OF 1630.19 FEET TO A POINT ON THE WATER RETENTION AREA AS DESCRIBED IN F.D.O.T. MAP NO. 405506 5; THENCE LEAVING SAID RIGHT OF WAY LINE AND ALONG SAID WATER RETENTION AREA FOR THE NEXT 2 COURSES: NORTH 16 DEGREES 15 MINUTES 30 SECONDS WEST, A DISTANCE OF 333.76 FEET; THENCE NORTH 89 DEGREES 44 MINUTES 06 SECONDS WEST, A DISTANCE OF 488.64 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE STATE ROUTE 9 (INTERSTATE 95) AND A POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE EASTERLY HAVING A RADIUS OF 3725.72 FEET, A CENTRAL ANGLE OF 14 DEGREES 38 MINUTES 34 SECONDS AND A CHORD DISTANCE OF 949.57 FEET WHICH BEARS NORTH 07 DEGREES 30 MINUTES 55 SECONDS WEST; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 952.16 FEET; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE, NORTH 00 DEGREES 10 MINUTES 54 SECONDS WEST, A DISTANCE OF 205.37 FEET TO THE SOUTHEASTERLY RIGHT OF WAY LINE OF BEELINE EXPRESSWAY (S.R. 528) AND A POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 600.49 FEET, A CENTRAL ANGLE OF 56 DEGREES 36 MINUTES 06 SECONDS AND A CHORD DISTANCE OF 569.39 FEET WHICH BEARS NORTH 28 DEGREES 05 MINUTES 29 SECONDS EAST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 593.22 FEET; THENCE CONTINUING ALONG SAID BEELINE EXPRESSWAY RIGHT OF WAY LINE FOR THE NEXT 5 COURSES: NORTH 56 DEGREES 24 MINUTES 56 SECONDS EAST, A DISTANCE OF 1093.64 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 600.49 FEET, A CENTRAL ANGLE OF 32 DEGREES 11 MINUTES 39 SECONDS AND A CHORD DISTANCE OF 332.99 FEET WHICH BEARS NORTH 72 DEGREES 30 MINUTES 43 SECONDS EAST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 337.41 FEET; THENCE NORTH 88 DEGREES 36 MINUTES 31 SECONDS EAST, A DISTANCE OF 1179.23 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 5579.58 FEET, A CENTRAL ANGLE OF 16 DEGREES 24 MINUTES 06 SECONDS AND A CHORD DISTANCE OF 1591.78 FEET WHICH BEARS SOUTH 83 DEGREES 11 MINUTES 31 SECONDS EAST; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 1597.23 FEET; THENCE SOUTH 74 DEGREES 59 MINUTES 21 SECONDS EAST, A DISTANCE OF 774.87 FEET TO THE EAST LINE OF SECTION 10, TOWNSHIP 24 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA; THENCE ALONG SAID EAST SECTION LINE, SOUTH 00 DEGREES 04 MINUTES 39 SECONDS EAST, A DISTANCE OF 1056.66 FEET; THENCE LEAVING SAID EAST SECTION LINE, NORTH 89 DEGREES 52 MINUTES 22 SECONDS WEST, A DISTANCE OF 668.59 FEET; THENCE SOUTH 00 DEGREES 07 MINUTES 14 SECONDS EAST, A DISTANCE OF 1273.27 FEET TO THE NORTH RIGHT OF WAY LINE OF JAMES ROAD, A 50 FOOT RIGHT OF WAY PER OFFICIAL RECORDS BOOK 783, PAGE 318, THENCE ALONG SAID RIGHT OF WAY LINE, NORTH 89 DEGREES 51 MINUTES 39 SECONDS WEST, A DISTANCE OF 2003.10 FEET TO THE POINT OF BEGINNING.

CONTAINING WITHIN SAID BOUNDS, 264.10 ACRES (11,504,572 SQ. FT.), MORE OR LESS.

EXHIBIT "B-1"

CONCEPTUAL BUBBLE PLAN FOR BARRERA SHORES PUD

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20

BUBBLE PLAN
BARRERA SHORES
CITY OF COCOA, FLORIDA
HAGEN PROPERTIES
BOWYER-SINGLETON
& ASSOCIATES, INCORPORATED
SINGLE FAMILY
RETENTION
WETLAND

Received Time Mar. 7. 9:45AM

EXHIBIT C

Legislation Details (With Text)

File #:	19-275	**Version:**	1	**Name:**	
Type:	Resolution			**Status:**	Council Busines
File created:	6/6/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	
Title:	Acceptance of the Signed Addendum to Resolution No. 2002-08. (City Manager)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	2002-008(Establishing a Code of Conduct for City Council Members).pdf Signed Addendum to Resolution No. 2002-08.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: June 6, 2019
Agenda Date: June 12, 2019
Prepared By: Carie Shealy, City Clerk
Through: John A. Titkanich, Jr., AICP, ICMA-CM, City Manager
Requested Action:
Acceptance of the Signed Addendum to Resolution No. 2002-08.

BACKGROUND:

At a recent City Council meeting, a brief discussion was held regarding Resolution No. 2002-08 which speaks about civility and the conduct of Council. Since this meeting, all current City Council members have signed an addendum which represents that they have all, individually, been provided a full and complete copy of the City Council Resolution No. 2002-08 and have individually pledged to uphold the code tenants set forth in the Resolution.

STRATEGIC PLAN CONNECTION:

NA

BUDGETARY IMPACT:

NA

PREVIOUS ACTION:

This Resolution was originally signed at a Regular City Council meeting held on January 8, 2002.

RECOMMENDED MOTION:
Acceptance of the Signed Addendum to Resolution No. 2002-08.

RESOLUTION NO. 2002-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA IN ACCORDANCE WITH ARTICLE III, §13(c) OF THE CITY CHARTER AND THE CITY OF COCOA VISIONING PLAN ESTABLISHING A CODE OF CONDUCT FOR CITY COUNCIL MEMBERS AND PRESCRIBING PENALTIES FOR VIOLATING SAID CODE AS SPECIFICALLY SET FORTH HEREUNDER; PROVIDING FOR REPEAL OF PRIOR INCONSISTENT RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the performance of duties and responsibilities of an elected City Council Member and the manner in which such duties are performed have a direct impact on (a) the quality of services afforded to the citizens of Cocoa; (b) the morale and job performance of City employees, contractors, board members, others involved in the different facets of City government, and the other City Council Members; and (c) the City's accountability to the citizens of Cocoa; and

WHEREAS, the City Council of the City of Cocoa desires to adopt a Code of Conduct for its members for purposes of enhancing professionalism, performance, productivity, morale, accountability, and integrity of the City Council and all facets of City government; and

WHEREAS, the City Council finds that this Resolution is in the best interests of the public health, safety, and welfare of the citizens of Cocoa.

NOW, THEREFORE, be it resolved by the City Council of the City of Cocoa, Florida, as follows:

Section 1. Code of Conduct. The following Code of Conduct is hereby adopted for the City Council and the Members thereof as a public statement of expected City Council conduct and ethics, and that members of the Council shall evidence their pledge to uphold the following code tenets by affixing their signatures to this Resolution as set forth in Section 3 herein:

a. I affirm that the proper statutory and City Charter role of a City Council Member, as with any elected member of a legislative body, is to **act collectively, not individually, to set and/or revise the City of Cocoa's governing policies** and that the City Manager and staff administer such policies.

b. I understand that a City Council Member **does not** manage the affairs of the City (a) by intruding into daily operations or spheres of responsibility designated by Florida Statutes and the City Charter to the City Manager as the chief executive officer or to administrators acting as City Manager designees; or (b) by undermining the City Manager's lawful authority.

c. I will **represent the interests of the entire City and the District that has elected me** (excluding at-large Mayor) when making decisions and will rely upon available facts and my independent judgment. In my capacity as an elected City Council Member, I will avoid all legal conflicts of interest and avoid using my official position for personal, professional or partisan gain.

d. I will **demonstrate dignity, respect, and courtesy** toward those with whom I am in contact in my capacity as a City Council Member. I will refrain from intimidation and ridicule of fellow Council Members, City Manager, staff, and other stake-holders in the City of Cocoa.

e. In my capacity as an elected City Council Member, I will **refrain from inappropriate language** including statements that are malicious, threatening, disparaging, mean-spirited, vulgar or abusive. All disagreements, concerns or criticisms shall be framed in language that is in keeping with the dignity and professionalism of an elected official and the honor of the City Council.

f. I will **focus on solving problems.** I will maintain appropriate decorum and professional demeanor in the conduct of City business and work cooperatively and conscientiously with others as I request or receive information, examine data or weigh alternatives in the decision-making process.

g. I will **demonstrate patience** and refrain from demanding interruptive access to staff or immediate responses or services when requesting information that requires significant staff time in research, preparation or analysis or that will result in staff neglect of more urgent duties. Such requests will be made through the City Manager for scheduling and prioritizing or through consensus of the City Council.

h. I will **devote sufficient time for adequate preparation** prior to City Council meetings and be in attendance, insofar as possible, at those meetings and all other scheduled events at which Council member participation is required. I will prepare myself through study, inquiry and thought so as to be informed thoroughly about issues to be discussed in public meetings.

i. I will **respect diversity and encourage the open expression of divergent ideas and opinions** from fellow City Council Members, staff, citizens of Cocoa, and utility customers. I will listen actively and objectively to others' concerns or constructive criticisms.

j. I will **refrain from any individual action that could compromise the integrity** of the City, the City Council, or fellow City Council Members. I will delineate clearly for any audience whether I am acting or speaking as an individual citizen or I am acting or speaking in my capacity as a representative of the City Council.

k. I will **maintain confidentiality of privileged information** and will **abide by the *Government in the Sunshine Law,*** the ***Florida Code of Ethics for Public Officers,*** and the ***City Council Rules of Procedure*** in both its spirit and its intent.

l. I will **promote constructive relations in a positive climate** with all employees, consistent with my role as a Council member, as a means to enhancement of productivity and morale. I will support employment of best qualified persons for staff positions. I will recognize the achievements of staff, business partners, and others sharing the City of Cocoa's mission.

m. I will **update and improve my knowledge, contributions, and value to the City** by keeping abreast of current educational issues and trends through reading, continuing education and training. I will study policies and issues affecting the City of Cocoa, and attend training programs such as those offered through the National, Florida, and Space Coast League of Cities. My continuing goal will be to improve my performance as an elected City Council Member.

n. I will **value and assist my fellow City Council Members** by exchanging ideas, concerns and knowledge gleaned from my research or training. I will help build positive community support for the City of Cocoa's mission and the policies established by the City Council.

o. I will take a **stand for my beliefs but will remain flexible enough to understand others' views**. I recognize that I share in the responsibility for all City Council decisions and will accept the will of the majority.

p. I will **remember always that my first and greatest concern must be the citizens of Cocoa** and the public health, safety, and welfare. I will seek to provide appropriate leadership that nurtures and motivates the citizens of Cocoa to be stakeholders in the affairs and achievements of the City.

q. I will be **accountable to the City Council for violations of the Code of Conduct** set forth in this Resolution.

Section 2. Penalties. Based upon the gravity and frequency of the violation, the City Council, by majority vote (unless otherwise provided below), may impose any and all of the following penalties for a violation of this Resolution by any member of the City Council:

1. Required public apology;
2. Censure of Council Member (Verbal Reprimand);
3. Written Reprimand to be included within the minutes of the City Council;
4. Resolution of Reprimand (Written and published, in a newspaper and the City's FYI publication);
5. Fine not to exceed $100.00 for the first violation and not to exceed $500.00 per repeat violation (fines require 4/5 vote of Council); and
6. If the violation occurs during a City Council meeting and unduly disrupts the Council from conducting City business:
   a. Written reprimand to be included within minutes and temporary recess of Council Meeting to regain control;
   b. Upon return and a second such violation by the Council Member, the temporary ouster of the Council Member from that meeting in order to regain control of the meeting (discouraged except for the absolute necessity of conducting Council business).

Section 3. Execution by Council Members. The current Members of the City Council shall pledge to uphold the code tenets set forth herein by affixing their signatures to this Resolution. Council Members appointed or elected subsequent to the effective date of this Resolution shall be required to affix their signature to this Resolution or an addendum hereto upon taking the Oath of a City Council Member.

Section 4. Severability. In the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, sentence or paragraph hereof.

Section 5. Repealing Clause. All Resolutions or other actions of the City which are in conflict herewith are hereby repealed to the extent of such conflict or inconsistency.

Section 6. Effective Date. This Resolution shall take effect immediately upon its adoption.

DONE AND ADOPTED in regular session of the City Council of the City of Cocoa, Florida this 8 day of January, 2002.

CITY OF COCOA

Judy J. Parrish, Mayor

Attest:

Joan Clark, City Clerk

Jewel Collins, Deputy Mayor

Date: January 8, 2002

Todd Anderson, Council Member

Date: January 8, 2002

Bruce W. Tate, Council Member

Date: January 8, 2002

Brenda Warner, Council Member

Date: January 8, 2002

CITY COUNCIL SIGNATURE ADDENDUM

TO RESOLUTION NO. 2002-08

Pursuant to Section 3 of City Council Resolution No. 2002-08, each undersigned member of the City Council, having been duly elected, hereby individually represents that they have been provided a full and complete copy of City Council Resolution No. 2002-08, and individually pledges to uphold the code tenets set forth in said Resolution by affixing their signature below:

COUNCIL MEMBER	COUNCIL POSITION	DATE EXECUTED
Jake Williams Jr.	Mayor	6-4-19
Alex Goins	District 1	6/4/19
Brenda Warner	District 2	6/4/19
Don Boisvert	District 3	6/3/19
Loraine Koss	District 4	6/4/19

Legislation Details (With Text)

File #:	19-218	**Version:**	1	**Name:**	
Type:	Ordinance			**Status:**	City Business
File created:	5/7/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	
Title:	Approval of Ordinance No. 08-2019/First Reading: Amending Chapter 2, Administration, Article VII Police Officers' Retirement Plan of the Code by amending Section 2-193(a), Board of Trustees, extending the terms of office for the Board of Trustees from two years to four years. (Administrative Services Director)				
Sponsors:	Department Director				
Indexes:	Pension, Retirement				
Code sections:					
Attachments:	Ordinance No. 08-2019 Cocoa Police Pension				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: May 7, 2019
Agenda Date: June 12, 2019
Prepared By: Tammy B. Gemmati, PHR, Administrative Services Director
Through: John A. Titkanich, Jr., ICMA-CM, AICP, City Manager
Requested Action:
Approval of Ordinance No. 8-2019/first reading: Amending Chapter 2, Administration, Article VII Police Officers' Retirement Plan of the Code by amending Section 2-193(a), Board of Trustees, extending the terms of office for the Board of Trustees from two years to four years.

BACKGROUND:

The City of Cocoa has an established Police Officers' Retirement Plan in accordance with Chapter 185, Florida Statutes for the benefit of the City's Police Officers. In accordance with Florida Statute Section 185.03, the City is required to have a Board of Trustees as a part of the City's Police Pension Plan whom has the responsibility to administer the trust fund. There are specific statutory requirements that govern the eligibility of the Board Trustees and the terms such trustee may serve. Section 185.05 states the terms of office for the Board of Trustees shall be for a period of two (2) years, unless a municipal ordinance is in place to extend the terms from two (2) years to four (4) years. The length of the terms of office shall be the same for all board members.

City Staff was approached by the Pension Plan's attorney, Office of Klausner, Kaufman, Jensen, and Levinson and the Plan Administrator Sheila Hutchinson about executing this municipal change to the board of trustee terms, with providing a draft ordinance to amend the City's Code. By increasing the term limits to four years, this will in turn have better educated trustees to make better fiduciary decisions for the plan members and the plan sponsor. Further, there is no budgetary impact for this

change.

The proposed ordinance includes the following amendments to the pension plan:

1. Section 2-193(a), Board of Trustees

   The sole and exclusive administration of and responsibility for the proper operation of the system and for making effective the provisions of this ordinance is hereby vested in a board of trustees. The board is hereby designated as the plan administrator. The board shall consist of five (5) trustees, two (2) of whom, unless otherwise prohibited by law, shall be legal residents of the city, who shall be appointed by the Cocoa City Council, and two (2) of whom shall be members of the system, who shall be elected by a majority of the police officers who are members of the system. The fifth trustee shall be chosen by a majority of the previous four (4) trustees as provided for herein, and such person's name shall be submitted to the Cocoa City Council. Upon receipt of the fifth person's name, the Cocoa City Council shall, as a ministerial duty, appoint such person to the board as its fifth trustee. The fifth trustee shall have the same rights as each of the other four (4) trustees appointed or elected as herein provided and shall serve a ~~two~~ ~~(2)~~ four (4) year term unless he sooner vacates the office. Each resident trustee shall serve as trustee for a period of ~~two~~ ~~(2)~~ four (4) years, unless he sooner vacates the office or is sooner replaced by the Cocoa City Council at whose pleasure he shall serve. Each member trustee shall serve as trustee for a period of ~~two~~ ~~(2)~~ four (4) years, unless he sooner leaves the employment of the city as a police officer or otherwise vacates his office as trustee, whereupon a successor shall be chosen in the same manner as the departing trustee. Each trustee may succeed himself in office. DROP participants can be elected as but not vote for elected trustees. The board shall establish and administer the nominating and election procedures for each election. The board shall meet at least quarterly each year. The board shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

2. Incorporation Into the Code. Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Cocoa.

3. Repeal of Prior Inconsistent Ordinances and Resolutions. All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

4. Severability. If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

The Ordinance shall be effective immediately upon adoption by the City Council after the second reading, which will be scheduled at the June 26 Council Meeting. The actuary will be preparing a no cost impact statement which will be provided with the final reading.

City Administration recommends approval of Ordinance No. 8-2019/first reading, related to changes in the Police Officers' Retirement Plan, amending Section 2-193(a), Board of Trustees.

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STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

Budgeted N/A

PREVIOUS ACTION:

At a regular City Council Meeting on September 11, 2018, Council approved the second and final reading of Ordinance No. 8-2018, related to changes in the Police Officers' Retirement Plan consistent with a Memorandum of Understanding between the City of Cocoa and Coastal Florida Police Benevolent Association (PBA) regarding PBA Collective Bargaining Agreement effective October 1, 2015 to September 30, 2018, amending Section 2-191, Definitions; Section 2-220, Share Plan.

At a regular City Council Meeting on July 26, 2016, Council approved the second and final reading of Ordinance No. 13-2016 amending Chapter 2, Administration, Article VII Police Officers' Retirement Plan of the Code by amending Section 2-191, Definitions; Section 2-194, Finances and Fund Management; Section 2-198, Disability; Section 2-200, Optional Forms of Benefits; Section 2-205, Maximum Pension; Section 2-206, Minimum Distribution of Benefits; Section 2-217, Prior Police Service; Section 2-218, Deferred Retirement Option Plan.

RECOMMENDED MOTION:

Approval of Ordinance No. 8-2019/first reading: Amending Chapter 2, Administration, Article VII Police Officers' Retirement Plan of the Code by amending Section 2-193(a), Board of Trustees, extending the terms of office for the Board of Trustees from two years to four years.

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ORDINANCE NO. 8-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE VII, POLICE OFFICERS' RETIREMENT PLAN, OF THE CODE OF ORDINANCES OF THE CITY OF COCOA BY AMENDING 2-193, BOARD OF TRUSTEES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Cocoa has established a Police Officers Retirement Plan in accordance with Chapter 185, Florida Statutes for the benefit of the City's police officers.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1: That Chapter 2, Administration, Article VII, Police Officers' Retirement Plan, of the Code of Ordinances of the City of Cocoa, is hereby amended by amending section 2-193, Board of Trustees, to read as follows (Underlined type are additions and ~~strikeout~~ type are deletions to the City Code):

Sec. 2-193. – Board of Trustees.

* * * * *

(a) The sole and exclusive administration of and responsibility for the proper operation of the system and for making effective the provisions of this ordinance is hereby vested in a board of trustees. The board is hereby designated as the plan administrator. The board shall consist of five (5) trustees, two (2) of whom, unless otherwise prohibited by law, shall be legal residents of the city, who shall be appointed by the Cocoa City Council, and two (2) of whom shall be members of the system, who shall be elected by a majority of the police officers who are members of the system. The fifth trustee shall be chosen by a majority of the previous four (4) trustees as provided for herein, and such person's name shall be submitted to the Cocoa City Council. Upon receipt of the fifth person's name, the Cocoa City Council shall, as a ministerial duty, appoint such person to the board as its fifth trustee. The fifth trustee shall have the same rights as each of the other four (4) trustees appointed or elected as herein provided and shall serve a ~~two (2)~~ four (4) year term unless he sooner vacates the office. Each resident trustee shall serve as trustee for a period of ~~two (2)~~ four (4) years, unless he sooner vacates the office or is sooner replaced by the Cocoa City Council at whose pleasure he shall serve. Each member trustee shall serve as trustee for a period of ~~two (2)~~ four (4) years, unless he sooner leaves the employment of the city as a police officer or otherwise vacates his office as trustee, whereupon a successor shall be chosen

in the same manner as the departing trustee. Each trustee may succeed himself in office. DROP participants can be elected as but not vote for elected trustees. The board shall establish and administer the nominating and election procedures for each election. The board shall meet at least quarterly each year. The board shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

* * * * *

SECTION 2: Incorporation Into the Code. Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Cocoa.

SECTION 3: Repeal of Prior Inconsistent Ordinances and Resolutions. All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4: Severability. If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 5: Effective Date. That this Ordinance shall become effective upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, IN A REGULAR MEETING ASSEMBLED ON THE ___ DAY OF _____, 2019.

_____
Mayor

ATTEST:

_____
Carie Shealy, City Clerk

1ST READING: June 12, 2019

2ND READING AND ADOPTION: _____

Legislation Details (With Text)

File #:	19-257	**Version:**	1	**Name:**	
Type:	Report			**Status:**	City Business
File created:	5/24/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	

Title: Award Bid #B-19-15-COC, Sellers WRF Sludge Valves Replacements (part of the Sludge Handling Improvements, Project No. WS19SS) to WPC Industrial Contractors, LLC, Jacksonville, Florida, in the Amount of $84,700; To Approve a Resolution Authorizing the City Manager to Approve Change Orders in an Amount Not To Exceed $8,470 (10% of the Contract Amount) for a Total Project Cost of $93,170; To Authorize the City Manager to Execute the Contract. (Utilities Director)

Sponsors:

Indexes:

Code sections:

Attachments: B-19-15-COC FINAL MEMO
B-19-15-COC Tabulation Sheet - Sludge Valves
Bid B19-15-COC - Res Proj Contingency
B-19-15 Form of Agreement WPC Signed

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: May 24, 2019
Agenda Date: June 12, 2019
Prepared By: Maria I. Arenas, E.I., Utilities Associate Engineer I
Through: John A. Walsh, P.E., Utilities Director
Requested Action:
To Award Bid #B-19-15-COC, Sellers WRF Sludge Valves Replacements (part of the Sludge Handling Improvements, Project No. WS19SS) to WPC Industrial Contractors, LLC, Jacksonville, Florida, in the Amount of $84,700; To Approve a Resolution Authorizing the City Manager to Approve Change Orders in an Amount Not To Exceed $8,470 (10% of the Contract Amount) for a Total Project Cost of $93,170; To Authorize the City Manager to Execute the Contract

BACKGROUND:

Staff at the Sellers Water Reclamation Facility identified the need to replace seven (7) plug valves and associated piping and fittings involved in the sludge handling process at the plant. The Utilities Engineering Division designed the removal of existing materials and installation of new materials.

The City solicited bids for Construction under Bid # B-19-15-COC, Sellers WRF Sludge Valves Replacements and on May 9, 2019, bid were opened. Purchasing sent three hundred fifty-six (356) invitations and notifications to bid and received three (3) responses from fifteen (15) plan holders. City staff reviewed the bids and recommends awarding the contract to WPC Industrial Contractors,

LLC, of Jacksonville, Florida, who submitted the lowest and best quote submitted in the amount of $84,700.

City staff is also requesting that City Council approve an additional $8,470 as a contingency for the project. The additional amount is 10% of the contract amount and will be used for change orders with approval by the City Manager. Although City staff does not anticipate change orders, there is a possibility of unknown obstacles in the field that would require changes to the project budget and/or schedule. If a change order is needed, the additional amount will allow the project to continue to move forward.

The additional $8,470 will not be added to the initial purchase order and staff will review each change order before it is sent to the City Manager for approval.

Staff recommends awarding Bid #B-19-15-COC, Sellers WRF Sludge Valves Replacements, Project No. WS19SS to WPC Industrial Contractors, LLC, of Jacksonville, Florida, in the amount of $84,700.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

Budgeted	Yes
If not budgeted, is amendment/transfer attached?	N/A
Amount Requested	$93,170
Account Number	426-4120-536.63-00, WS19SS
Account Name	Infrastructure
Source of Funds:	Series 2018B Bond

PREVIOUS ACTION:

On March 27, 2018, City Council approved Resolution No. 2018-017 establishing the City's intent to reimburse certain capital expenditures incurred in connection with refurbishing its Water and Sewer System with proceeds of future tax-exempt financing(s).

On April 24, 2018, City Council approved the selection of two (2) bond-underwriting firms for the negotiated sale of the City of Cocoa Florida Water and Sewer System Refunding and Revenue Bonds, Series 2018.

On August 14, 2018, City Council approved the issuance of Water and Sewer System Revenue Bonds to finance capital improvements to the System.

On November 28, 2018, City Council approved an amendment to the Fund Balance Reserve Budget to include Water/Sewer (WS) Capital Projects 2018B Fund 426 to better track Bond related projects and spending of the Bond proceeds.

On January 9, 2018, City Council approved the reallocation of funds from the Spalling Repair of the Automatic Backwash (ABW) Filter Basin Project to the Sludge Handling Improvements Project (SHIP). The ABW project cost was under the City's capitalization threshold and, therefore, was reclassified and funded under Seller's Repair and Maintenance, Account No. 421-4120-536.46-00). The original, unused, bond-funded amount for the ABW project was transferred to fund the SHIP project.

RECOMMENDED MOTION:

To Award Bid #B-19-15-COC, Sellers WRF Sludge Valves Replacements (part of the Sludge Handling Improvements, Project No. WS19SS) to WPC Industrial Contractors, LLC, Jacksonville, Florida, in the Amount of $84,700; To Approve a Resolution Authorizing the City Manager to Approve Change Orders in an Amount Not To Exceed $8,470 (10% of the Contract Amount) for a Total Project Cost of $93,170; To Authorize the City Manager to Execute the Contract.

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Finance Department
Purchasing Division
65 Stone Street I Cocoa, FL 32922
Phone: (321) 433-8833 Fax: (321) 433-8860

To: Mia Arenas, Utilities Associate Engineer/Project Manager

From: Sonja Hamilton, Purchasing Manager

Date: 5/2910/19

Re: **Bid #B-19-15-COC, Sellers WRF Sludge Valve Replacements Project**

Bids for the subject offering were opened on May 9, 2019 at 3:00 p.m. Purchasing sent out three hundred fifty-six (356) invitations and notifications to bid and received three (3) responses from fifteen (15) plan holders.

THE APPARENT LOW BIDDER IS WPC Industrial Contractors, LLC of Jacksonville, FL

I have enclosed copies of all bids for your review and recommendation. Any correspondence related to this subject, should be forwarded to my attention for retention in the purchasing files.

After reviewing the enclosed proposals please follow the guide lines shown below to initiate the purchasing process:

- ➔ Review proposals and select recommendation for award.
- ➔ Verify Insurance Requirements can be met.
- ➔ Obtain copies of all necessary licenses.
- ➔ Execute Form of Agreement (Section 500)
- ➔ Prepare agenda item and prepare contract if necessary for Council Approval.
- ➔ Prepare requisition and attach the following items:
    - Copy of Approved City Clerk's Journal and Agenda
    - Bid Tabulation Sheet
    - Form of agreement
    - All specifications for the awarded proposal
    - Copy of General Liability Insurance, with the City of Cocoa named as an additional insured on the policy.

*** Please complete the attached Notice of Award memo and return it to the Purchasing Division.**

CITY OF COCOA

BID TABULATION SHEET

BID OPENING DATE: Thursday, March 21, 2019

BID NUMBER: B-19-15-COC Sellers WRF Sludge Valve Replacements

VENDOR	0019 Bidder's Acknowledgement	00110 Local Vendor Preference	00296 Scrutinized Company Certification	00297 Certificate of Debarment & Suspension	00298 Bidder's Certification	00300 Bid Form Total Base Bid	Receipt of Addendum	00311 Exceptions	References	00320 Statement Bidders Qualifications	00320 (3) Project Summaries	00330 Subcontractors	00401 Bid Bond	00480 Non-Collusion Affidavit	00485 Drug Free	00490 Conflict of Interest Statement	00620 Corporate Principal	00650 Certificate of Liability Insurance	00660 Affidavit Regarding Workman's Comp.	00665 Certificate of Insurance Workman's Comp.	Attended Mandatory Pre-bid
Maxwell Contracting, Inc. P.O. Box 820 Cocoa, FL 32923	Y	Y	Y	Y	Y	$91,929.00	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
WPC Industrial Contractors, LLC. 9310 Old Kings Rd. South Jacksonville, FL 32257	Y	na	Y	Y	Y	$84,700.00	Y	Y	Y	Y	Y	na	Y	Y	Y	Y	Y	Y	Y	Y (See GL COI for Workman's Comp)	Y
Danus Utilities, Inc. 2320 N. Beardall Ave Sanford, FL 32771	Y	na	Y	Y	Y	$98,250.00	Y	Y	Y	Y	Y	na	Y	Y	Y	Y	Y	Y	Y	Y	Y

RESOLUTION NO. 2019-053

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA; AUTHORIZING THE CITY MANAGER TO APPROVE AND EXECUTE CHANGE ORDERS TO THE PRIMARY CONSTRUCTION CONTRACT AND ANY ADDITIONAL SERVICE CONTRACTS RELATED TO THE COMPLETION OF THE PROJECT REGARDING THE SELLERS WATER RECLAMATION FACILITY SLUDGE VALVES REPLACEMENTS, PROJECT NO. WS19SS IN AN AMOUNT NOT TO EXCEED THE TOTAL AMOUNT BUDGETED FOR THE PROJECT BY THE CITY COUNCIL INCLUSIVE OF THE TEN PERCENT CONTINGENCY SET ASIDE FOR THE PROJECT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, on June 12, 2019, the City Council authorized the City Manager to proceed with the Sellers Water Reclamation Facility Sludge Valves Replacements, Project No. WS19SS, 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 Sellers Water Reclamation Facility Sludge Valves Replacements, Project No. WS19SS, provided the total amount of approved change orders and any additional service contracts do not exceed the construction budget. The construction budget is $84,700 and allows for a 10% contingency in the amount of $8,470 set aside for possible change orders, for a total of $93,170 for the project. This grant of spending authority shall be interpreted and construed in accordance with the provisions of Section 2-4 of the City Code.

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

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

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

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on June 12, 2019.

_____
Jake Williams, Jr., Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk

FORM OF AGREEMENT
BID NO. B-19-15-COC
CITY OF COCOA

This Agreement made and entered into on the 21st day of May, 2019 by and between WPC Industrial Contractors, LLC hereinafter called the contractor and the City of Cocoa, a municipal cooperation organized and existing under the Laws of the State of Florida, and located in Brevard County, Florida, hereinafter called the City.

Witnesseth that the Contractor and the City, for the Consideration herein-after named, agree as follows:

ARTICLE 1. SCOPE OF WORK - The Contractor shall furnish all labor, equipment and materials and perform all work described in the Bidding/Contract Documents and Drawings, and shall do everything required by this agreement and the contract documents.

ARTICLE 2. COMMENCEMENT AND COMPLETION - The Contractor will be required to commence work under this contract within fourteen (14) calendar days after the date of receipt by him of Notice to Proceed or Purchase Order, and substantially complete the work within seventy-five (75) days and totally complete all work in its entirety within ninety (90) days of Notice to Proceed or Purchase Order. The Contractor agrees to reimburse the City of Cocoa, Florida, as liquidated damages for each calendar day elapsing between the date herein specified as the day of substantial or full completion and the actual day of such completion of the contract work, the amount of five hundred ($500.00) per calendar day.

ARTICLE 3. THE CONTRACT SUM - The City will pay the Contractor for performance of the contract, subject to additions and deductions provided therein, in current funds as follows:

Eighty Four Thousand Seven Hundred and 00/100 Dollars	$ 84,700
(Written in Words)	(In Figures)

ARTICLE 4. PROGRESS PAYMENTS - Partial payments calculated from materials stored on the job site and completed work in place and acceptable to the City at the unit bid prices will be made on/or about the 15th of each month on pay estimates based on the previous month's progress. The Contractor shall, after the first of each month, submit invoice for materials used and work performed for the previous month. The owner will certify all invoices before presenting them for payment. 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. Ten percent (10%) of the amount due and payable to the Contractor will be retained from each month's partial payment. Final payment will be accomplished as prescribed in the Agreement and will be based on complete work in place. Also, the contractor shall: (1) Provide satisfactory evidence that it has acquired title to the materials that it has been paid for and that the material will be used to perform this contract, and (2) Provide a Consent of Surety for the progress payments.

ARTICLE 5. THE CONTRACT DOCUMENTS - The Notice to Contractors, Instructions to Bidders, General Conditions, Special Conditions, Specifications, Proposal, Agreement, Performance/Payment Bond, and Drawings form the contract and they are as fully as part of this contract as if the same were hereto attached or herein repeated. Unless otherwise provided in the Contract Documents, any conflicts between the aforementioned documents shall be resolved in order of priority established in the City of Cocoa's purchasing manual at the time this Agreement is executed by both parties.

ARTICLE 6. LIABILITY INSURANCE -

COMMERCIAL GENERAL LIABILITY INSURANCE MINIMUM REQUIREMENTS FOR CONTRACTS VALUED AT LESS THAN $15,000:
It is required that individuals and firms contracting with the City of Cocoa, where the total contract or job value is LESS than $15,000, maintain Commercial General Liability insurance with a minimum per occurrence limit of not less than $200,000 and with a deductible amount not greater than $1,000. It is further required that the City of Cocoa be named as an additional insured to the contractor's CGL policy, and that proof of same in the form of a certificate of insurance be submitted before work is begun.

COMMERCIAL GENERAL LIABILITY INSURANCE MINIMUM REQUIREMENTS FOR CONTRACTS VALUED AT $15,000 OR MORE:
It is required that individuals and firms contracting with the City of Cocoa, where the total contract or job value is $15,000 or MORE, maintain Commercial General Liability insurance with a minimum per occurrence limit of not less than $1,000,000 and with a deductible not greater than $1,000. It is further required that the City of Cocoa be named as an additional insured to the contractor's CGL policy, and that proof of same in the form of a certificate of insurance be submitted before work is begun.

AUTOMOBILE LIABILITY INSURANCE MINIMUM REQUIREMENTS FOR ALL CONTRACTS:
It is required that individuals and firms contracting with the City of Cocoa and who own licensed motor vehicles, that will be utilized in connection with any City contract or job, maintain automobile liability insurance and submit proof of same in the form of a certificate of insurance before work is begun.

It is further required that individuals and firms contracting with the City of Cocoa who lease, rent, or borrow licensed motor vehicles, that will be utilized in connection with any City contract or job, be required to maintain non-owned or hired automobile liability insurance and submit proof of same in the form of a certificate of insurance before work is begun.

PROFESSIONAL LIABILITY INSURANCE MINIMUM REQUIREMENTS FOR ALL PROFESSIONALS AS DEFINED BY FLORIDA STATUTE:
Professionals and professional corporations, associations, and firms who contract with the City of Cocoa to provide professional services are required to maintain Professional Liability Insurance and submit proof of same in the form of a certificate of insurance before work is begun.

ENVIRONMENTAL IMPAIRMENT INSURANCE MINIMUM REQUIREMENTS:
Individuals or firms who contract with the City of Cocoa to provide excavation or construction type services and who will be locating portable fuel or lubricant storage tanks at the job site or who will be storing or using hazardous chemicals on the job site are required to maintain Environmental Impairment Insurance of "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 and endorsement to their General Liability policy showing a pollution exclusion exception for each specific work product or storage container before work is begun. Contracts with such firms shall include a provision that they work in compliance with the OSHA Hazardous Communication Standard and Florida Department of Environmental Protection guidelines and supply all information about hazardous chemical being brought onto City property as required by the City's Safety and Loss Control Program.

WORKERS' COMPENSATION INSURANCE MINIMUM REQUIREMENTS:
It is required that firms employing four or more people who contract with the City of Cocoa maintain Workers' Compensation Insurance at the statutory limits and employer liability insurance and submit proof of same in the form of a certificate of insurance before work is begun.

It is required that firms employing less than four people who contract with the City of Cocoa comply with the exemption and notice provisions of F.S. 440 and maintain employer liability insurance and submit proof of same in the form of a certificate of insurance before work is begun.

However, if you are a corporate officer of a corporation that is actively engaged in the construction industry, or a sole proprietor or partner who is actively engaged in the construction industry, then your exemption will not apply to any work performed at a commercial building project valued at $250,000 or greater and you must secure workers' compensation coverage in accordance with F.S. 440.38 and these general conditions and submit proof of same in the form of a certificate of insurance before work is begun.

DURATION OF CONTRACTS-NAMED INSUREDS-LIABILITY INSURANCE:
For contracts exceeding time periods of 30 days, it is required that the vendor name the City of Cocoa as an additional insured on their Liability Insurance polices and submit proof of same in the form of a certificate of insurance before work is begun.

ARTICLE 7. PERFORMANCE/PAYMENT BOND - The contractor shall furnish to the City concurrently with the execution of this contract a Performance/Payment Bond equal to 100% of the bid in the penal sum of $ 84,700 with good and sufficient sureties, conditioned upon the performance of this contract by the Contractor in accordance with the terms and conditions hereof, within the time herein provided and with the additional obligation that such Contractor shall promptly make payment to all persons supplying him, labor, materials, and supplies, used directly by said Contractor in the prosecution of the work provided for in this contract.

ARTICLE 8. ACCEPTANCE AND FINAL PAYMENT - Upon receipt of written notice that the work is ready for final inspection and acceptance, the Owner will promptly make such inspection and when he finds the work acceptable under the contract and the contract fully performed, he will promptly issue a final certificate, over his own signature, stating the work provided for in this contract has been completed and acceptance by him under the terms and conditions thereof is recommended and the entire balance found to be due the Contractor will be paid to the Contractor at the office of the City within twenty (20) days after the date of said final certificate. Before issuance of final certificate, the Contractor shall submit evidence satisfactory to the Owner that all payrolls, material bills and other indebtedness connected with the work have been paid. The making and acceptance of the final payment shall not constitute a waiver of any claims of the city against the Contractor, including, but not limited to, claims arising for defective or faulty work, warranty work, unsettled liens, or the failure of the Contractor to correctly comply with the job specification. A Consent of Surety for the release of the final payment will be required.

ARTICLE 9. ATTORNEY FEES AND COSTS - Should any dispute or legal action arise out of this agreement or the obligations stated herein, or any dispute or action is based upon this Agreement or any of its provisions, the prevailing party shall be entitled to recover its reasonable attorney fees, expenses and costs incurred in connection with such a dispute or action, including, without limitation, its attorney fees and costs through appeals.

ARTICLE 10. FULLY NEGOTIATED AGREEMENT - This agreement has been fully negotiated in an arms length transactions and neither party has been coerced in any manner to execute this agreement. In Each party has opportunity to employ legal counsel and seek legal advice from such counsel with respect to this agreement, its obligations, terms and limitations.

ARTICLE 11. SEVERABILITY - If any provisions of this agreement is declared or deemed invalid, unenforceable or lawful by any tribunal or court of competent jurisdiction, such provision shall be deemed automatically modified to conform to the requirements for validity as declared at the time, and as so modified, shall be deemed a provision of this agreement as though originally included herein. In the event that the provision invalidated is of such nature that it cannot be so modified, the provision shall be deemed deleted and withdrawn from this agreement as though the provision had never been included herein. In either event, the remaining provisions of this agreement shall remain in full force and effect.

ARTICLE 12. VENUE AND GOVERNING LAW - The parties agree that the venue shall be exclusively in Brevard County, State of Florida, for disputes or actions which may arise out of or are based upon this agreement. This agreement shall be governed by the laws of the State of Florida where it is deemed, made and executed.

ARTICLE 13. MODIFICATIONS AND ENTIRE AGREEMENT - This agreement may only be modified, altered or amended in whole or in part, by written instrument setting forth such changes and signed by all parties hereto. This agreement constitutes the entire agreement and understanding between the parties, and oral communications and understandings are hereby deemed void and merged into this agreement.

ARTICLE 14. **NOTICES** - Unless otherwise stated herein, all notices to the parties to this agreement shall be in writing, certified mail, return receipt request, at the address listed above.

ARTICLE 15. **BINDING EFFECT** - This agreement shall be binding upon the parties, heirs, assigns, personal representatives, executors and successors.

ARTICLE 16. **WAIVER** - Any waiver of any breach or violation of either party's obligations under this agreement shall not be construed as a continuing waiver or consent to any subsequent breach or violations.

ARTICLE 17. **INDEPENDENT CONTRACTOR** At all times during the term of this Agreement, Contractor shall be considered an independent contractor and not an employee of the City.

ARTICLE 18. **CHANGE ORDERS** Any and all change orders required under this Agreement shall be approved, in writing, by the City prior to Contract performing, or not performing, the work specified in the change order.

ARTICLE 19. **SOVEREIGN IMMUNITY** Nothing contained in this Agreement shall be constructed as a waiver of the City's right to sovereign immunity under Section 768.28, Florida Statues, or other limitations imposed on the City's potential liability under state or federal law.

ARTICLE 20. **DEFAULT BY CONTRACTOR**

(a) The City reserves the right to revoke and terminate this Agreement and rescind all rights and privileges associated with this Agreement, without penalty, in the following circumstances, each of which shall represent a default and breach of this Agreement:

i. Contractor 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 the Contractor promptly takes and diligently pursues such action as are necessary therefore; or

ii. 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

iii. Contractor has acted grossly negligent, as defined by general and applicable law, in performing the services hereunder; or

iv. Contractor has committed any act of fraud upon the City; or

v. Contractor has made a material misrepresentation of fact to the City while performing its obligations under this Agreement.

(b) Notwithstanding the aforementioned, in the event of a default by Contractor, the City shall have the right to exercise any other remedy the City may have by operation law, without limitation, and without any further demand or notice.

ARTICLE 21. **TERMINATION** - Notwithstanding any other provision of this Agreement, City may, upon written notice to Contractor, terminate this Agreement, without penalty, if: (a) Contractor is in default pursuant to Article 20, Default by Contractor; (b) contractor makes a general assignment for the benefit of its creditors; (c) Contractor fails to comply with any condition or provision of this Agreement; or (d) 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 City may have under this Agreement. In the event of such 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.

This Agreement may be cancelled by either party with thirty (30) days written notice to the other party.

ARTICLE 22. **INDEMNIFICATION**

(a) For all services performed pursuant to this Agreement, the Contractor agrees to the fullest extent permitted by law, to indemnify and hold harmless the City and its employees and officers from and against all claims, losses,

damages, personal injuries (including but not limited to death), or liability (including reasonable attorney's fees through any and all administrative, trial and appellate proceedings), directly or indirectly arising from:

i. Any default under this Agreement by Contractor; and
ii. Any negligent act, omission or operation of work related to all services performed under this Agreement by Contractor, and its employees, principals, agents, independent contractors, and consultants.

(b) The indemnification provided above shall obligate the Contractor to defend as 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 of liability and all suits and actions of every name and description that may be brought against the City or its employees and officers to the services under this Agreement whether the services be performed by the Contractor or anyone directly or indirectly employed by them. In all events the City shall be permitted to choose legal counsel of its sole choice, the fees for which shall be subject to and included this indemnification provided herein, as long as said fees are no greater than at

a rate of $200 per hour.

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

(a) Contractor is duly registered 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 Agreement.

(b) The undersigned representative of Contractor has the power, authority, and legal right to execute and deliver this Agreement on behalf of Contractor.

ARTICLE 24. **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.

ARTICLE 25. **THIRD PARTY RIGHTS** - Nothing in this Agreement shall be constructed to give any rights or benefits to anyone other than City and Contractor.

ARTICLE 26. **ASSIGNMENT**

(a) Contractor shall not assign or subcontract this Agreement, any task authorization hereunder, or any rights or any Moines due or to become due hereunder without the prior, written consent of City.

(b) If upon receiving written approval from city, any part of this Agreement is subcontracted by Contractor, Contractor shall be fully responsible to City for all acts and/or omissions performed by the subcontractor as if no subcontract had been made.

(c) If City determines that any subcontractor is not performing in accordance with this Agreement, City shall so notify Contractor who shall take immediate steps to remedy the situation.

(d) If any part of this Agreement is subcontracted by Contractor, prior to the commencement of any work by the subcontractor, Contractor shall require the subcontractor to provide city and its affiliates with insurance coverage as set forth by the City.

ARTICLE 27. **PUBLIC RECORDS**

(a) **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 CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC**

RECORDS AT: (321) 433-8484; cshealy@cocoafl.org; City Clerk's Office, 65 Stone Street, Cocoa, FL, 32922.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

CONTRACTOR

Signed and sealed by the Contractor in the presence of:

BY _____
(CONTRACTOR)

ATTEST: Joseph Vito Papalone

CITY OF COCOA

Signed and sealed by the City in the presence of:

BY: _____
(City Manager)

ATTEST: _____

SECTION 00500

Legislation Details (With Text)

File #:	19-265	**Version:**	1	**Name:**	
Type:	Report			**Status:**	City Business
File created:	5/31/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	
Title:	Approve an Increase to the City's Full Time Employee Headcount, within the Finance Department Utility Customer Service Division. (Finance Director)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:					

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: May 24, 2019
Agenda Date: June 12, 2019
Prepared By: Lora Howell, Deputy Finance Director
Through: Rebecca Bowman, MBA, CGFO, CGFM
Requested Action:
Approve an Increase to the City's Full Time Employee Headcount, within the Finance Department Utility Customer Service Division.

BACKGROUND:

The Utility Customer Service Division of Finance is a very dynamitic area, and has little down time. The front counter staff (3 Representatives) of customer service, offer a multitude of services such as, processing new meter applications, activating, terminating, and transferring service (over 2,000 work orders each month), answering billing questions, processing payment plans and extensions, as well as processing over 8,000 walk in and drop box utility payments each month. The call center staff (6 Representatives) answer between 9,000 and 10,000 calls a month and processes thousands of emails from our many utility customers.

Since 1999, an additional 24,159 new utility customers have been added to our system. In 1999 there were eight Customer Service Representatives and one Cashier with an Office Clerk as a backup for breaks and lunch, supporting 60,413 utility accounts. This is in comparison with today's 84,572 utility accounts, and nine (9) Customer Service Representatives, who also take payments. Essentially, there is one more Customer Service Representative in "title" since 1999; however, they assumed all of the Cashiering duties in 2016.

At certain times of the month, there is a need to have a "payment only line" to process utility payments at a vigorous rate. Currently staff works very hard at trying to accommodate the heavy

powered by Legistar™

payment traffic and juggle with other Customer Service duties, however it is very difficult to accomplish with our current staffing levels.

Therefore, staff is recommending that City Council authorize the addition of Customer Service Representative effective immediately to service the front counter in order. With the addition to the front counter staff, it will be feasible to once again, open a payment only line, during peak times of the month, assisting with the long wait times for “payment only” type of customer exchanges.

STRATEGIC PLAN CONNECTION:

Continuing to provide excellence in Customer Service.

BUDGETARY IMPACT:

Due to several promotional opportunities, the Customer Service Division as had vacancies in the current year, and the remaining budget will be sufficient to cover the last three months of fiscal year 2019. The starting salary for a Customer Service Representative is $27,206 a year, and the cost for July through September will be approximately $7,000.

PREVIOUS ACTION:

RECOMMENDED MOTION:

Approve an Increase to the City’s Full Time Employee Headcount, within the Finance Department Utility Customer Service Division.

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Legislation Details (With Text)

File #:	19-262	**Version:**	1	**Name:**	
Type:	Resolution			**Status:**	City Business
File created:	5/30/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	

Title: Approval to accept the loan funds with conditions awarded from the Community Development Block Grant (CDBG) Section 108 Loan Guarantee Program; approve a Budget Resolution Amending the Fiscal Year 2019 Adopted Budget in the amount of $894,000 plus the 2.23% loan fee in the amount of $19,937; and authorize the Mayor to sign any certifications, documents and/or agreements related to the Section 108 Loan Guarantee. (Community Services Director)

Sponsors:

Indexes:

Code sections:

Attachments:
Budget Resolution No. 2019-050
BAF 19-097 CDBG Sec 108 Loan.pdf
BAF 19-099 -CS-Loan Fees (6-12-19)~ Agenda 19-262.pdf
BAF 19-100 -CS-CDBG Loan Fees (6-12-19) Agenda 19-262.pdf
Attachment A- Cocoa Approval Letter B-18-MC-12-0003
Attachment B- HUD Form 7082 B-18-MC-12-0003 Cocoa_FL HUD Form 7082_HUD signed plus
Attachment C HUD-2880 Applicant_Recipient Disclosure_Update Report

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: May 30, 2019
Agenda Date: June 12, 2019
Prepared By: Nancy A. Bunt, Community Services Director
Through: John A. Titkanich, Jr., AICP, ICMA-CM, City Manager
Requested Action:
Council approval to accept the loan funds with conditions awarded from the Community Development Block Grant (CDBG) Section 108 Loan Guarantee Program; approve a Budget Resolution Amending the Fiscal Year 2019 Adopted Budget in the amount of $894,000 plus the 2.23% loan fee in the amount of $19,937; and authorize the Mayor to sign any certifications, documents and/or agreements related to the Section 108 Loan Guarantee.

BACKGROUND:

On February 27, 2019, City Council conducted a Public Hearing in accordance with the requirements of 24 CFR 91.105(c), with the intent to request a substantial amendment to the City's approved FY2018/2019 Action Plan in connection with a proposed application to the U.S. Department of Housing & Urban Development (HUD) for a $894,445 Section 108 Loan. City Council approved a Resolution authorizing the submission of a Section 108 Loan Guarantee Application to HUD. During

the application review, HUD requested the City lower the requested loan amount to the nearest $1,000, or $894,000. Proceeds of this loan will be used to support the Dr. Joe Lee Smith Center project. On May 21, 2019, the City received notification that the Section 108 Loan was approved with the following conditions:

(1) In the event the City fails to submit notes or other obligations for inspection and guarantee by the Secretary of Housing and Urban Development (HUD) before June 30, 2020, the Commitment will expire as of such date.

(2) The repayment schedule for the indebtedness evidenced by the notes or other obligations (the "Guaranteed Loan") must be acceptable to HUD.

(3) The City shall provide additional security for the Guaranteed Loan and such additional security must be acceptable to HUD. The additional security shall be identified in the Contract for Loan Guarantee Assistance ("Contract"), specified by 24 CFR 570.705(b)(1), which will be executed at the time the guaranteed obligations are issued. The City's application and other supporting material identify the City's pledge of its full faith and credit as additional security for the Guaranteed Loan.

Additionally, the Contract shall provide that HUD may use existing pledged grants to prepay (or defease) the Guaranteed Loan if HUD determines that the standard pledge of future Community Development Block Grant ("CDBG") funds is insufficient to assure payment of amounts due thereunder. HUD reserves the right to require further security upon evaluation of the foregoing security arrangements and the City may substitute other collateral security for such arrangements, subject to HUD's approval of such substitution.

(4) Prior to submitting notes or other obligations for inspection and guarantee by HUD, the City shall submit information required under Section 102(b) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545).

(5) The City is required to pay a fee of 2.23% of the principal amount of loan guaranteed under this Commitment to cover the credit subsidy costs as announced in the *Federal Register* on October 5, 2018 (83 FR 50257). This fee applies to all Section 108 guaranteed loan commitments issued in Fiscal Year 2019. The fee is applied only at the time of loan disbursements. The amount to be paid at that time is equal to 2.23% of the principal amount of the requested Guaranteed Loan advance, or $19,937. Staff has included this loan fee in the attached Budget Transfer/Amendments, using General Fund Contingency, transferred to CDBG Debt Proceeds.

In addition to the special conditions cited above, the release of funds for the project to be carried out with loan guarantee assistance is conditioned upon compliance by the City with all applicable provisions of the HUD Environmental Review Procedures (24 CFR Part 58). These Procedures include limitations on the commitment of HUD and non-HUD funds on an activity or project prior to HUD's approval of the request for release of funds and related certification of compliance with environmental requirements. Title 24 CFR 58.22 for a description of the limitations and the entities to whom they apply.

The City must provide a timetable for execution of the activities described in the application. These activities will be financed through a public offering of Section 108 obligations. If the City needs funds

prior to the next public offering, the City shall notify HUD for obtaining interim financing.

The City shall execute three (3) copies of the attached Funding Approval (Form HUD-7082) and return two (2) copies to HUD. The Funding Approval amends the Grant Agreement authorized by HUD on October 03, 2018, under the Funding Approval for grant number B-18-MC-12-0003 to include loan guarantee assistance. The Grant Agreement thereby incorporates this Funding Approval, the loan guarantee application, and Subpart M of the block grant regulations governing loan guarantees, as well as such agreements, schedules, and other documentation required for submission or execution in connection therewith.

Staff is requesting City Council approval to accept the loan funds with conditions listed above awarded from the Community Development Block Grant (CDBG) Section 108 Loan Guarantee Program; approve a Budget Resolution Amending the Fiscal Year 2019 in the amount of $894,000 plus the 2.23% loan fee to recognize the debt proceeds; and authorize the Mayor to sign any certifications, documents and/or agreements related to the Section 108 Loan Guarantee.

Budget for the related debt service for this loan will be provided in the FY 2020 budget.

STRATEGIC PLAN CONNECTION:

The City's Strategic Plan identified Community Development (Redevelopment of the City's Core) as a strategic issue, specifically "How will the City raise the quality of life all its residents, especially those most vulnerable and disadvantaged." The Dr. Joe Lee Smith Center would be located in one of the most underserved and disadvantaged areas of the City and the services proposed through various providers will seek to raise the quality of life of residents.

BUDGETARY IMPACT:

Budgeted	No
If not budgeted, is amendment/transfer attached?	Yes

Budget Amendment #19- 097

Loan:
Revenue

Amount Requested	$ 894,000
Account Number	103-000-384.00-00
Account Name	Debt Proceeds (CP1504)

Expense

Amount Requested	$ 894,000
Account Number	103-3240-554.62-00
Account Name	Building (CP1504)

FEES:
Budget Transfer #19- 099

Amount Requested	$ (19,937)
Account Number	001-1600-513.39-00
Account Name	Contingency

Amount Requested	$ 19,937
Account Number	001-1600-581.91-03
Account Name	Interfund Transfer

Budget Amendment #19- 100

Amount Requested	$ 19,937
Account Number	103-0000-381.91-01
Account Name	Transfer from General Fund

Amount Requested	$ 19,937
Account Number	103-3240-517.73-00
Account Name	Debt Service Payments / Other

Source of Funds: Section 108 Loan Guarantee Program and the 2.23% loan fee payment will be funded through General Fund Contingency.

PREVIOUS ACTION:

On February 27, 2019, (Item 19-72) City Council conducted a Public Hearing in accordance with the requirements of 24 CFR 91.105(c), with the intent to request a substantial amendment to the City's approved FY2018/2019 Action Plan in connection with a proposed application to the U.S. Department of Housing & Urban Development (HUD) for a $894,445 Section 108 Loan. City Council approved a Resolution authorizing the submission of a Section 108 Loan Guarantee Application to HUD.

RECOMMENDED MOTION:

Council approval to accept the loan funds with conditions awarded from the Community Development Block Grant (CDBG) Section 108 Loan Guarantee Program; approve a Budget Resolution Amending the Fiscal Year 2019 Adopted Budget in the amount of $894,000 plus a 2.23% loan fee in the amount of $19,937; and authorize the Mayor to sign any certifications, documents and/or agreements related to the Section 108 Loan Guarantee.

RESOLUTION NO. 2019-050

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AMENDING THE CITY OF COCOA BUDGET FOR FISCAL YEAR 2019; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Cocoa adopted the final budget for the fiscal year commencing on October 1, 2018, and ending on September 30, 2019, at a Special meeting held on September 13, 2018; and

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

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

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

SECTION 1. The 2018-2019 fiscal year budget shall be amended as detailed in the attached sheets.

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

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

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the 12th day of June, 2019.

_____
Jake Williams, Jr., Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk

City of Cocoa Budget Adjustment Form FY 2019 - 19-097

SELECT ADJUSTMENT TYPE: BUDGET AMENDMENT | REQUESTING DEPARTMENT #: FN | DATE PREPARED: 06/06/19

'REVENUE' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 894,000	103-0000-384.00-00	CP1504	Debt Proceeds	$ 0	$ 0	$ 894,000	$ 894,000
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 894,000	TOTAL						

'EXPENSE' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 894,000	103-3240-554.62-00	CP1504	Building	$ 0	$ 0	$ 894,000	$ 891,000
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 894,000	TOTAL						

REASON/JUSTIFICATION FOR ADJUSTMENT:

This amendment is to accept the loan funds with conditions awarded from the Community Development Block Grant (CDBG) Section 108 Loan Guarantee Program and to amend the Fiscal Year 2019 in the amount of $894,000. Agenda 19-262

CITY COUNCIL APPROVAL REQUIRED? YES (●) NO ( ) DATE APPROVED: _____ RESOLUTION #: 2019-050

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

6/6/19 Lea Taylor Digitally signed by Lea Taylor Date: 2019.06.06 17:52:32 -04'00'	6/6/19 Lea Taylor Digitally signed by Lea Taylor Date: 2019.06.06 17:52:41 -04'00'	
Date Requestor's Signature	Date Finance Approval Signature	Date Finance Director's Signature
6/6/19 Nancy Bunt Digitally signed by Nancy Bunt Date: 2019.06.06 18:08:40 -04'00'	6/7/19 Lora Howell Digitally signed by Lora Howell Date: 2019.06.07 10:01:42 -04'00'	
Date Department Director's Signature	Date Deputy Fin. Director's Signature	Date City Manager's Signature

FINANCE USE ONLY:

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

Approved 07/13

Revised eform 11/19/18 - IT

City of Cocoa Budget Adjustment Form FY 2019 - 099

SELECT ADJUSTMENT TYPE: BUDGET TRANSFER | REQUESTING DEPARTMENT #: FN | DATE PREPARED: 06/07/19

'FROM' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
($ 19,937)	001-1600-513.39-00		CONTINGENCY	$ 498,192	$ 85,475	$ 65,538	$ 65,538
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
($ 19,937)	TOTAL						

'TO' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 19,937	001-1600-581.91-03		INTERFUND TRANSFER CDBG (103)	$ 0	$ 0	$ 19,937	$ 19,937
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 19,937	TOTAL						

REASON/JUSTIFICATION FOR ADJUSTMENT:

This transfer is to cover the costs for the credit subsidy fee as they relate to the CDBG Section 108 debt issuance of $894,000. This represents 2.23% of the $894,000 loan amount. The General Fund is providing Financial Assistance for these costs in order to progress the Dr. Joe Lee Smith Community Center Project. Agenda 19-262

City COUNCIL APPROVAL REQUIRED? YES (●) NO ( ) DATE APPROVED: 06/12/19 RESOLUTION #: 2019-050

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

6/7/19	Lora Howell Digitally signed by Lora Howell Date: 2019.06.07 16:39:40 -04'00'	6/10/19	Lea Taylor Digitally signed by Lea Taylor Date: 2019.06.10 08:30:25 -04'00'		
Date	Requestor's Signature	Date	Finance Approval Signature	Date	Finance Director's Signature
6/7/19	Rebecca Bowman Digitally signed by Rebecca Bowman Date: 2019.06.07 18:01:01 -04'00'	6/7/19	Lora Howell Digitally signed by Lora Howell Date: 2019.06.07 16:42:34 -04'00'		
Date	Department Director's Signature	Date	Deputy Fin. Director's Signature	Date	City Manager's Signature

FINANCE USE ONLY:

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

Approved 07/13

Revised eform 11/19/18 - IT

City of Cocoa Budget Adjustment Form FY 2019 - 100

SELECT ADJUSTMENT TYPE: BUDGET AMENDMENT | REQUESTING DEPARTMENT #: FN | DATE PREPARED: 06/07/19

'REVENUE' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 19,937	103-0000-381.91-01		TRANSFER FROM GENERAL FUND	$ 0	$ 0	$ 19,937	$ 19,937
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 19,937	TOTAL						

'EXPENSE' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 19,937	103-3240-517.73-00		DEBT SERVICE PAYMENTS / OTHER	$ 0	$ 0	$ 19,937	$ 19,937
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 19,937	TOTAL						

REASON/JUSTIFICATION FOR ADJUSTMENT:

This transfer is to cover costs for the credit subsidy fees as they relate to the CDBG Section 108 debt issuance of $894,000. This represents 2.23% 0f the $894,000 loan amount. The General Fund is providing Financial Assistance for these costs in order to progress the Dr. Joe Lee Smith Community Center Project. Agenda 19-262

City COUNCIL APPROVAL REQUIRED? *YES* (●) *NO* ( ) *DATE APPROVED:* 06/12/19 *RESOLUTION #:* 2019-050

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

6/7/19	Lora Howell Digitally signed by Lora Howell Date: 2019.06.07 16:39:40 -04'00'	6/10/19	Lea Taylor Digitally signed by Lea Taylor Date: 2019.06.10 06:59:41 -04'00'		
Date	Requestor's Signature	Date	Finance Approval Signature	Date	Finance Director's Signature
6/7/19	Rebecca Bowman Digitally signed by Rebecca Bowman Date: 2019.06.07 16:02:26 -04'00'	6/7/19	Lora Howell Digitally signed by Lora Howell Date: 2019.06.07 16:42:34 -04'00'		
Date	Department Director's Signature	Date	Deputy Fin. Director's Signature	Date	City Manager's Signature

FINANCE USE ONLY:

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

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-7000

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

MAY 1 3 2019

The Honorable Jake Williams, Jr.
Mayor, City of Cocoa, Florida
65 Stone Street
Cocoa, Florida 32922

Dear Mayor Williams:

Congratulations! I am pleased to inform you that the City of Cocoa's (hereafter, the "City") request for loan guarantee assistance under Section 108 of the Housing and Community Development Act of 1974, as amended, has been approved. Such assistance is to consist of the guarantee of notes or other obligations in the principal amount of $894,000, plus interest thereon, which shall be issued to finance activities described in the City's application (B-18-MC-12-0003) for the Dr. Joe Lee Smith Community Center project.

This offer of commitment ("Commitment") is subject, however, to the conditions specified in Item 8 of the Funding Approval (Form HUD-7082).

The first condition provides that in the event the City fails to submit notes or other obligations for inspection and guarantee by the Secretary of Housing and Urban Development (HUD) before June 30, 2020, the Commitment will expire as of such date.

The second condition provides that the repayment schedule for the indebtedness evidenced by the notes or other obligations (the "Guaranteed Loan") must be acceptable to HUD.

The third condition provides that the City shall provide additional security for the Guaranteed Loan and such additional security must be acceptable to HUD. The additional security shall be identified in the Contract for Loan Guarantee Assistance ("Contract"), specified by 24 CFR 570.705(b)(1), which will be executed at the time the guaranteed obligations are issued. The City's application and other supporting material identify the City's pledge of its full faith and credit as additional security for the Guaranteed Loan.

In addition, the Contract shall provide that HUD may use existing pledged grants to prepay (or defease) the Guaranteed Loan if HUD determines that the standard pledge of future Community Development Block Grant ("CDBG") funds is insufficient to assure payment of amounts due thereunder. HUD reserves the right to require further security upon evaluation of the foregoing security arrangements and the City may substitute other collateral security for such arrangements, subject to HUD's approval of such substitution.

The fourth condition provides that prior to submitting notes or other obligations for inspection and guarantee by HUD, the City shall submit information required under Section 102(b) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545). This information shall be submitted on Form HUD-2880 to HUD's Jacksonville Field Office. A copy of Form HUD-2880 is enclosed for this purpose.

The fifth condition provides that the City is required to pay a fee of 2.23% of the principal amount of loan guaranteed under this Commitment to cover the credit subsidy costs as announced in the *Federal Register* on October 5, 2018 (83 FR 50257). This fee applies to all Section 108 guaranteed loan commitments issued in Fiscal Year 2019. The fee is applied only at the time of loan disbursements. The amount to be paid at that time is equal to 2.23% of the principal amount of the requested Guaranteed Loan advance. The fee may be paid directly by the City or, alternatively, it may be deducted from the Guaranteed Loan advance(s). If the fee is paid directly by the City, it may be paid from CDBG grant funds drawn down under the CDBG line of credit or with another source.

In addition to the special conditions cited above, the release of funds for the project to be carried out with loan guarantee assistance is conditioned upon compliance by the City with all applicable provisions of the HUD Environmental Review Procedures (24 CFR Part 58). The City is reminded that these Procedures include limitations on the commitment of HUD and non-HUD funds on an activity or project prior to HUD's approval of the request for release of funds and related certification of compliance with environmental requirements. Please refer to 24 CFR 58.22 for a description of the limitations and the entities to whom they apply.

Please furnish us, at the address specified below, your timetable for execution of the activities described in your application. These activities will be financed through a public offering of Section 108 obligations. If you need funds prior to the next public offering, please notify HUD at the address below and instructions for obtaining interim financing will be provided.

Please execute the three enclosed copies of the Funding Approval (Form HUD-7082) and return two copies to the Department of Housing and Urban Development, Financial Management Division, Room 7282, 451 Seventh Street, S.W., Washington, D.C. 20410. One copy should be retained for your files. The Funding Approval amends the Grant Agreement authorized by HUD on October 03, 2018, under the Funding Approval for grant number B-18-MC-12-0003 to include loan guarantee assistance. The Grant Agreement thereby incorporates this Funding Approval, the loan guarantee application, and Subpart M of the block grant regulations governing loan guarantees, as well as such agreements, schedules, and other documentation required for submission or execution in connection therewith.

Please do not hesitate to reach out if we can support you in the use of your Section 108 funds. Please contact Paul D. Webster, Director, Financial Management Division at (202) 402-4563, if you need assistance.

Sincerely,

Stanley Gimont
Deputy Assistant Secretary
for Grant Programs

Enclosures (2)

Funding Approval/Agreement

Title I of the Housing and Community Development Act (Public Law 930383)

U.S. Department of Housing and Urban Development
Office of Community Planning and Development
Community Development Block Grant Program

HI-00515R of 20515R

1. Name of Grantee (as shown in item 5 of Standard Form 424)	3. Grantee's 9-digit Tax ID Number	4. Date use of funds may begin (mm/dd/yyyy)
City of Cocoa, Florida		
2. Grantee's Complete Address (as shown in item 5 of Standard Form 424)	**5a. Project/Grant No. 1**	**6a. Amount Approved**
65 Stone Street Cocoa, Florida 32922	B-18-MC-12-0003	
	5b. Project/Grant No. 2	6b. Amount Approved
	5c. Project/Grant No. 3	6c. Amount Approved

Grant Agreement: This Grant Agreement between the Department of Housing and Urban Development (HUD) and the above named Grantee is made pursuant to the authority of Title I of the Housing and Community Development Act of 1974, as amended, (42 USC 5301 et seq.). The Grantee's submissions for Title I assistance, the HUD regulations at 24 CFR Part 570 (as now in effect and as may be amended from time to time), and this Funding Approval, including any special conditions, constitute part of the Agreement. Subject to the provisions of this Grant Agreement, HUD will make the funding assistance specified here available to the Grantee upon execution of the Agreement by the parties. The funding assistance specified in the Funding Approval may be used to pay costs incurred after the date specified in item 4 above provided the activities to which such costs are related are carried out in compliance with all applicable requirements. Pre-agreement costs may not be paid with funding assistance specified here unless they are authorized in HUD regulations or approved by waiver and listed in the special conditions to the Funding Approval. The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and actions, as specified and required in regulations issued by the Secretary pursuant to Section 104(g) of Title I and published in 24 CFR Part 58. The Grantee further acknowledges its responsibility for adherence to the Agreement by sub-recipient entities to which it makes funding assistance hereunder available.

U.S. Department of Housing and Urban Development (By Name)		Grantee Name	
Stanley Gimont		City of Cocoa, Florida	
Title		Title	
Deputy Assistant Secretary for Grant Programs			
Signature	Date (mm/dd/yyyy) MAY 13 2019	Signature	Date (mm/dd/yyyy)

7. Category of Title I Assistance for this Funding Action (check only one)	8. Special Conditions (check one)	9a. Date HUD Received Submission (mm/dd/yyyy)	10. check one
☐ a. Entitlement, Sec 106(b)	☐ None		☒ a. Orig. Funding Approval
☐ b. State-Administered, Sec 106(d)(1)	☒ Attached	9b. Date Grantee Notified (mm/dd/yyyy)	☐ b. Amendment Amendment Number
☐ c. HUD-Administered Small Cities, Sec 106(d)(2)(B)		9c. Date of Start of Program Year (mm/dd/yyyy)	
☐ d. Indian CDBG Programs, Sec 106(a)(1)			
☐ e. Surplus Urban Renewal Funds, Sec 112(b)			
☐ f. Special Purpose Grants, Sec 107			
☒ g. Loan Guarantee, Sec 108			

11. Amount of Community Development Block Grant	FY ( )	FY ( )	FY ( )
a. Funds Reserved for this Grantee			
b. Funds now being Approved			
c. Reservation to be Cancelled (11a minus 11b)			

12a. Amount of Loan Guarantee Commitment now being Approved	12b. Name and complete Address of Public Agency
$894,000	N/A

Loan Guarantee Acceptance Provisions for Designated Agencies:
The public agency hereby accepts the Grant Agreement executed by the Department of Housing and Urban Development on the above date with respect to the above grant number(s) as Grantee designated to receive loan guarantee assistance, and agrees to comply with the terms and conditions of the Agreement, applicable regulations, and other requirements of HUD now or hereafter in effect, pertaining to the assistance provided it.

12c. Name of Authorized Official for Designated Public Agency

Title

Signature

HUD Accounting use Only

Batch	TAC	Program	Y	A	Reg	Area	Document No.	Project Number	Category	Amount	Effective Date (mm/dd/yyyy)	F
	153 176											
			Y					Project Number		Amount		
			Y					Project Number		Amount		

Date Entered PAS (mm/dd/yyyy)	Date Entered LOCCS (mm/dd/yyyy)	Batch Number	Transaction Code	Entered By	Verified By

8. Special Conditions.

(a) In the event the City of Cocoa, Florida (the "City") fails to submit notes or other obligations for inspection and guarantee by the Secretary of Housing and Urban Development (the "Secretary") before June 30, 2020, the commitment will terminate and expire as of such date.

(b) The repayment schedule for the City's debt obligation, as defined in 24 CFR 570.701, must be acceptable to the Secretary.

(c) Pursuant to 24 CFR 570.705(b)(3), the City shall provide additional security for the Guaranteed Loan and such additional security must be acceptable to the Secretary. The additional security shall be identified in the Contract for Loan Guarantee Assistance specified by 24 CFR 570.705(b)(1), which will be executed at the time the guaranteed obligations are issued.

(d) Prior to submitting notes or other obligations for inspection and guarantee by the Secretary, the City shall submit information required under Section 102(b) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545). This information shall be submitted on Form HUD-2880 to HUD's Jacksonville Field Office.

(e) The City is required to pay a fee of 2.23% of the principal amount of loan guaranteed and advanced under this Commitment to cover the credit subsidy costs as announced in the *Federal Register* on October 5, 2018 (83 FR 50257).

Applicant/Recipient Disclosure/Update Report

U.S. Department of Housing and Urban Development

OMB Approval No. 2510-0011 (exp. 11/30/2018)

Instructions. (See Public Reporting Statement and Privacy Act Statement and detailed instructions on page 2.)

Applicant/Recipient Information

Indicate whether this is an Initial Report ☐ **or an Update Report** ☐

1. Applicant/Recipient Name, Address, and Phone (include area code):	2. Social Security Number or Employer ID Number:
3. HUD Program Name	4. Amount of HUD Assistance Requested/Received

5. State the name and location (street address, City and State) of the project or activity:

Part I Threshold Determinations

1. Are you applying for assistance for a specific project or activity? These terms do not include formula grants, such as public housing operating subsidy or CDBG block grants. (For further information see 24 CFR Sec. 4.3).
   ☐ **Yes** ☐ **No**

2. Have you received or do you expect to receive assistance within the jurisdiction of the Department (HUD) , involving the project or activity in this application, in excess of $200,000 during this fiscal year (Oct. 1 - Sep. 30)? For further information, see 24 CFR Sec. 4.9
   ☐ **Yes** ☐ **No**.

If you answered "**No**" to either question 1 or 2, **Stop**! You do not need to complete the remainder of this form.
However, you must sign the certification at the end of the report.

Part II Other Government Assistance Provided or Requested / Expected Sources and Use of Funds.

Such assistance includes, but is not limited to, any grant, loan, subsidy, guarantee, insurance, payment, credit, or tax benefit.

Department/State/Local Agency Name and Address	Type of Assistance	Amount Requested/Provided	Expected Uses of the Funds

(**Note**: Use Additional pages if necessary.)

Part III Interested Parties. You must disclose:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).

Alphabetical list of all persons with a reportable financial interest in the project or activity (For individuals, give the last name first)	Social Security No. or Employee ID No.	Type of Participation in Project/Activity	Financial Interest in Project/Activity ($ and %)

(**Note**: Use Additional pages if necessary.)

Certification

Warning: If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosures of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.
I certify that this information is true and complete.

Signature:	Date: (mm/dd/yyyy)
X	

Public reporting burden for this collection of information is estimated to average 2.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collection displays a valid OMB control number.

Privacy Act Statement. Except for Social Security Numbers (SSNs) and Employer Identification Numbers (EINs), the Department of Housing and Urban Development (HUD) is authorized to collect all the information required by this form under section 102 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. 3531. Disclosure of SSNs and EINs is voluntary. HUD is authorized to collect this information under the Housing and Community Development Act of 1987 42 U.S.C.3543 (a). The SSN or EIN is used as a unique identifier. The information you provide will enable HUD to carry out its responsibilities under Sections 102(b), (c), and (d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, approved December 15, 1989. These provisions will help ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. They will also help ensure that HUD assistance for a specific housing project under Section 102(d) is not more than is necessary to make the project feasible after taking account of other government assistance. HUD will make available to the public all applicant disclosure reports for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be made available along with the disclosure reports, but in no case for a period generally less than three years. All reports, both initial reports and update reports, will be made available in accordance with the Freedom of Information Act (5 U.S.C. §552) and HUD's implementing regulations at 24 CFR Part 15. HUD will use the information in evaluating individual assistance applications and in performing internal administrative analyses to assist in the management of specific HUD programs. The information will also be used in making the determination under Section 102(d) whether HUD assistance for a specific housing project is more than is necessary to make the project feasible after taking account of other government assistance. You must provide all the required information. Failure to provide any required information may delay the processing of your application, and may result in sanctions and penalties, including imposition of the administrative and civil money penalties specified under 24 CFR §4.38.

Note: This form only covers assistance made available by the Department. States and units of general local government that carry out responsibilities under Sections 102(b) and (c) of the Reform Act must develop their own procedures for complying with the Act.

Instructions

Overview.

A. Coverage. You must complete this report if:
(1) You are applying for assistance from HUD for a specific project or activity **and** you have received, or expect to receive, assistance from HUD in excess of $200,000 during the during the fiscal year;
(2) You are updating a prior report as discussed below; or
(3) You are submitting an application for assistance to an entity other than HUD, a State or local government if the application is required by statute or regulation to be submitted to HUD for approval or for any other purpose.

B. Update reports (filed by "Recipients" of HUD Assistance): General. All recipients of covered assistance must submit update reports to the Department to reflect substantial changes to the initial applicant disclosure reports.

Line-by-Line Instructions.

Applicant/Recipient Information.
All applicants for HUD competitive assistance, must complete the information required in blocks 1-5 of form HUD-2880:

1. Enter the full name, address, city, State, zip code, and telephone number (including area code) of the applicant/recipient. Where the applicant/recipient is an individual, the last name, first name, and middle initial must be entered.
2. Entry of the applicant/recipient's SSN or EIN, as appropriate, is optional.
3. Applicants enter the HUD program name under which the assistance is being requested.
4. Applicants enter the amount of HUD assistance that is being requested. Recipients enter the amount of HUD assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation. NOTE: In the case of assistance that is provided pursuant to contract over a period of time (such as project-based assistance under section 8 of the United States Housing Act of 1937), the amount of assistance to be reported includes all amounts that are to be provided over the term of the contract, irrespective of when they are to be received.
5. Applicants enter the name and full address of the project or activity for which the HUD assistance is sought. Recipients enter the name and full address of the HUD-assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., RFP No.; IFB No.; grant announcement No.; or contract, grant, or loan No.) Include prefixes.

Part I. Threshold Determinations - Applicants Only

Part I contains information to help the applicant determine whether the remainder of the form must be completed. **Recipients filing Update Reports should not complete this Part.**

If the answer to ***either*** questions 1 or 2 is No, the applicant need not complete Parts II and III of the report, but must sign the certification at the end of the form.

Part II. Other Government Assistance and Expected Sources and Uses of Funds.

A. Other Government Assistance. This Part is to be completed by both applicants and recipients for assistance and recipients filing update reports. Applicants and recipients must report any other government assistance involved in the project or activity for which assistance is sought. Applicants and recipients must report any other government assistance involved in the project or activity. Other government assistance is defined in note 4 on the last page. For purposes of this definition, other government assistance is expected to be made available if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the assistance will be forthcoming.

Both applicant and recipient disclosures must include all other government assistance involved with the HUD assistance, as well as any other government assistance that was made available before the request, but that has continuing vitality at the time of the request. Examples of this latter category include tax credits that provide for a number of years of tax benefits, and grant assistance that continues to benefit the project at the time of the assistance request.

The following information must be provided:

1. Enter the name and address, city, State, and zip code of the government agency making the assistance available.
2. State the type of other government assistance (e.g., loan, grant, loan insurance).
3. Enter the dollar amount of the other government assistance that is, or is expected to be, made available with respect to the project or activities for which the HUD assistance is sought (applicants) or has been provided (recipients).
4. Uses of funds. Each reportable use of funds must clearly identify the purpose to which they are to be put. Reasonable aggregations may be used, such as "total structure" to include a number of structural costs, such as roof, elevators, exterior masonry, etc.

B. Non-Government Assistance. Note that the applicant and recipient disclosure report must specify all expected sources and uses of funds - both from HUD ***and any other source*** - that have been or are to be, made available for the project or activity. Non-government sources of

funds typically include (but are not limited to) foundations and private contributors.

Part III. Interested Parties.

This Part is to be completed by both applicants and recipients filing update reports. Applicants must provide information on:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).
   Note: A financial interest means any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

The information required below must be provided.

1. Enter the full names and addresses. If the person is an entity, the listing must include the full name and address of the entity as well as the CEO. Please list all names alphabetically.
2. Entry of the Social Security Number (SSN) or Employee Identification Number (EIN), as appropriate, for each person listed is optional.
3. Enter the type of participation in the project or activity for each person listed: i.e., the person's specific role in the project (e.g., contractor, consultant, planner, investor).
4. Enter the financial interest in the project or activity for each person listed. The interest must be expressed both as a dollar amount and as a percentage of the amount of the HUD assistance involved.

Note that if any of the source/use information required by this report has been provided elsewhere in this application package, the applicant need not repeat the information, but need only refer to the form and location to incorporate it into this report. (It is likely that some of the information required by this report has been provided on SF 424A, and on various budget forms accompanying the application.) If this report requires information beyond that provided elsewhere in the application package, the applicant must include in this report all the additional information required.

Recipients must submit an update report for any change in previously disclosed sources and uses of funds as provided in Section I.D.5., above.

Notes:

1. All citations are to 24 CFR Part 4, which was published in the Federal Register. [April 1, 1996, at 63 Fed. Reg. 14448.]
2. Assistance means any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan or mortgage, that is provided with respect to a specific project or activity under a program administered by the Department. The term does not include contracts, such as procurements contracts, that are subject to the Fed. Acquisition Regulation (FAR) (48 CFR Chapter 1).
3. See 24 CFR §4.9 for detailed guidance on how the threshold is calculated.
4. "Other government assistance" is defined to include any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal government (other than that requested from HUD in the application), a State, or a unit of general local government, or any agency or instrumentality thereof, that is, or is expected to be made, available with respect to the project or activities for which the assistance is sought.
5. For the purpose of this form and 24 CFR Part 4, “person” means an individual (including a consultant, lobbyist, or lawyer); corporation; company; association; authority; firm; partnership; society; State, unit of general local government, or other government entity, or agency thereof (including a public housing agency); Indian tribe; and any other organization or group of people.

Legislation Details (With Text)

File #:	19-278	**Version:**	1	**Name:**	
Type:	Resolution			**Status:**	City Business
File created:	6/7/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	

Title: Approve a Resolution Amending the FY 2019 Budget with the use of General Fund Balance Reserves, for the Dr. Joe Lee Smith Community Center Construction Project in Fiscal Year 2019, in the amount of $1,324,369. Additionally, these funds are expected to be reimbursed to the General Fund, during the course of the project or following the completion of the project. If reimbursement does not happen, the City will be ultimately responsible for the costs not reimbursed. (Community Services Director)

Sponsors:

Indexes:

Code sections:

Attachments: Resolution 2019
BAF 19-101-FN- GF Fund Balance (6-12-19)~ Agenda 19-278.pdf
BAF 19-102 -FN-CDBG Fund Balance (6-12-19)~ Agenda 19-278.pdf

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: June 7, 2019
Agenda Date: June 12, 2019
Prepared By: Charlene Neuterman, Deputy Community Services Director
Through: Nancy A. Bunt, Community Services Director
Requested Action:
Approve a Resolution Amending the FY 2019 Budget with the use of General Fund Balance Reserves, for the Dr. Joe Lee Smith Community Center Construction Project in Fiscal Year 2019, in the amount of $1,324,369. Additionally, these funds are expected to be reimbursed to the General Fund, during the course of the project or following the completion of the project. If reimbursement does not happen, the City will be ultimately responsible for the costs not reimbursed.

BACKGROUND:

The construction of Dr. Joe Lee Smith Community Center will be funded through multiple sources. These funding sources include the City of Cocoa, Community Development Block Grant (CDBG) Funds and Section 108 Loan Guarantee Funds and Diamond Square Community Redevelopment Agency. The contributions listed below make up the total cost of the project:

1) Diamond Square Community Redevelopment Agency = $47,488 (Budgeted FY 2019)
2) Section 108 Loan Guarantee Funds = $894,000
3) CDBG - FY 2019 Budget = $190,000
4) CDBG - FY 2020 = $65,369

5) CDBG - Brevard County FY 2020 = $175,000
6) City of Cocoa - Capital Project Fund 301 = $3,178,156 (Budgeted FY2019)

The Diamond Square Community Redevelopment Agency budgeted in Fiscal Year 2019 to contribute to the construction of the Center; therefore, the City is not committing funds from General Fund Balance Reserves for their portion of the project. The remaining funds from the Community Development Block Grant Program and Section 108 Loan Guarantee Fund Program will require Council approval to commit the funds from General Fund Balance Reserves to begin the construction of the project and issue a Purchase Order to the contractor, W&J Construction.

The City received confirmation of Section 108 Loan Guarantee Funds in the amount of $894,000. These funds were discussed previously in Agenda Item #19-262, during this meeting. The City is required to commit the funds allocated by the Section 108 Loan Guarantee to issue the Purchase Order. Upon the approval of expenditures, the City may request reimbursement for the $894,000 from the Fund set aside for the Loan.

The City amended its FY 2019 CDBG Budget to reflect the $190,000 in Community Development Block Grant Funds specifically dedicated to the Dr. Joe Lee Smith Community Center Construction. Upon the approval of expenditures, the City may request reimbursement for the $190,000 set aside for the project in the CDBG account.

In addition, the City is proposing $65,369 in CDBG funds the Fiscal Year 2020 Budget (upon approval of the FY 2020 budget by Council) for the construction of the Center. Upon approval of expenditures, the City may request reimbursement of the $65,369 set aside for the project in the FY 2020 CDBG account.

The City is in the process of preparing an Interlocal Agreement with Brevard County to commit Brevard County CDBG Funds to the construction of the Center. The Brevard County Community Action Agency is interested in providing services to the residents of the City of Cocoa that specifically relates to their mission.

- The Mission Statement of the Brevard County Community Action Agency
    - To reduce the causes of poverty by empowering persons to become self-sufficient through case management, life management training, and short term final assistance as well as by promoting institutional sensitivity and responsiveness to the needs of income eligible persons through a wide range of federal, state and local resources.

Brevard County will budget in Fiscal Year 2020, $175,000 as a contribution to the construction of the Center, pending budget approval by the Brevard County Board of County Commissioners. Upon approval of expenditures, the City may request reimbursement of the $175,000 set aside for the project by Brevard County.

By committing the funds for the project upfront, the City is guaranteeing the successful completion of the construction of the Dr. Joe Lee Smith Community Center should any of these other entities, default on their portion of the reimbursement. Staff respectfully requests City Councils approval for the following:

(2) Section 108 Loan Guarantee Funds = $894,000
(3) CDBG - FY 2019 Budget = $190,000
(4) CDBG - FY 2020 = $65,369

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(5) CDBG - Brevard County FY 2020 = $175,000

Totaling $1,324,369 from General Fund (GF) Balance Reserves, for the construction of the Dr. Joe Lee Smith Community Center, with the understanding that if any portion of the commitments from the CDBG Funds and Section 108 Loan Funds default, the City is responsible for the funds to complete the project. The use of General Fund Balance on Budget Amendment Form 2019-101, is necessary because the CDBG fund does not have the cash yet, as CDBG funds are based on reimbursement. In addition, a portion of the funding is pledged CDBG future revenues. When these funds are received by CDBG, the advance will be repaid to the General Fund.

STRATEGIC PLAN CONNECTION:

One of the goals in the Strategic Plan in Revitalization of the City. This project will revitalize the Diamond Square Community by providing enhanced services for youth and adults alike to improve the health and well-being of the community.

BUDGETARY IMPACT:

Budgeted	No
If not budgeted, is amendment/transfer attached?	Yes

Budget Amendment # 2019-101

Amount Requested	$1,324,369
Account Number	001-0000-389.99-50 (CP1504)
Account Name	Fund Balance Reserves

Amount Requested	$1,324,369
Account Number	001-1600-581.91-03 (CP1504)
Account Name	Interfund Transfer to CDBG (103)

Budget Amendment # 2019-102

Amount Requested	$1,324,369
Account Number	103-0000-381.91-01 (CP1504)
Account Name	Transfer from General Fund

Amount Requested	$1,324,369
Account Number	103-3240-554.62-00 (CP1504)
Account Name	Building

PREVIOUS ACTION:

19-262: Accept the Section 108 Loan Guarantee Funds in the amount of $894,000 - June 12, 2019

Council meeting.
19-213: Hold second and final Public Hearing to approve the City of Cocoa's FY 2019/2020 CDBG & HOME Action Plan; authorize submission of the Plan to the U.S. Department of Housing and Urban Development (HUD); and authorize the Mayor to sign all subsequent certifications and agreements - May 22, 2019 Council Meeting.

RECOMMENDED MOTION:

Approve a Resolution to Amending the FY 2019 Budget with the use of General Fund Balance Reserves, for the Dr. Joe Lee Smith Community Center Construction Project in Fiscal Year 2019, in the amount of $1,324,369. Additionally, these funds are expected to be reimbursed to the General Fund, during the course of the project or following the completion of the project. If reimbursement does not happen, the City will be ultimately responsible for the costs not reimbursed.

RESOLUTION NO. 2019-054

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, APPROVING THE COMMITMENT OF FUNDS IN THE GENERAL FUND BALANCE TO THE CONSTRUCTION OF THE DR. JOE LEE SMITH COMMUNITY CENTER (CP1504) IN FISCAL YEAR 2019; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS AND POLICIES, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City is granted the authority, under Section 2(b), Article VIII of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the City's Financial Operations Manual establishes a fund balance reserve policy tailored to the needs of the City to insure against unanticipated events adversely affecting the financial condition of the City and jeopardizing the continuation of necessary public services; and

WHEREAS, the construction funds are to be appropriated and recommended by the City Manager and approved by the City Council; and

WHEREAS, the City Council desires to approve the commitment of funds in the general fund balance to construct the Dr. Joe Lee Smith Community Center (CP1504) for Fiscal Year 2019; and

WHEREAS, the City Council deems that this Resolution is in the best interests of the public health, safety, and welfare of the citizens of Cocoa.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, THAT:

SECTION 1. Incorporation of Recitals. The foregoing recitals are deemed true and correct and are hereby fully incorporated herein by this reference.

SECTION 2. **Approval of Commitment of General Fund Balance.** The City Council of the City of Cocoa hereby approves the recommendation of the City Manager to commit an additional $1,324,369 to the Dr. Joe Lee Smith Construction Project CP1504 for Fiscal Year 2019.

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase, word, or portion of this Resolution is for any reason held invalid or unconstitutional by a court of competent jurisdiction, whether for substantive or procedural reason, such shall not affect the validity of the remaining portion of the Resolution.

SECTION 4. Repeal of Prior Inconsistent Resolutions. All prior resolutions or parts of resolutions and policies in conflict herewith are hereby repealed to the extent of the conflict.

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 12th day of June, 2019.

_____
Jake Williams, Jr., Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk

City of Cocoa Budget Adjustment Form FY 2019 - 101

SELECT ADJUSTMENT TYPE: BUDGET AMENDMENT | REQUESTING DEPARTMENT #: FN | DATE PREPARED: 06/07/19

'REVENUE' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 1,324,369	001-0000-389.99-50	CP1504	FUND BALANCE RESERVES	$ 8,321,414	$ 9,104,069	$ 10,428,438	$ 10,428,438
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 1,324,369	TOTAL						

'EXPENSE' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 1,324,369	001-1600-581.91-03	CP1504	INTERFUND TRASFER TO CDBG (103)	$ 0	$ 19,937	$ 1,344,306	$ 1,344,306
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 1,324,369	TOTAL						

REASON/JUSTIFICATION FOR ADJUSTMENT:

The General Fund is committing Fund Balance Reserves for the Dr. Joe Lee Smith Community Center Project so that the Purchase Order to the contractor can be issued and construction can begin. These funds will be reimbursed to the General Fund by the Section 108 Loan of ($894,000), CDBG Funds from FY 19 and 20 ($255,369) as well as CDBG monies from Brevard County ($175,000). Agenda 19-278

City COUNCIL APPROVAL REQUIRED? *YES* (●) *NO* ( ) *DATE APPROVED:* 06/12/19 *RESOLUTION #:* 2019-054

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

6/7/19	Lora Howell Digitally signed by Lora Howell Date: 2019.06.07 16:39:40 -04'00'	6/10/19	Lea Taylor Digitally signed by Lea Taylor Date: 2019.06.10 13:36:36 -04'00'		
Date	Requestor's Signature	Date	Finance Approval Signature	Date	Finance Director's Signature
6/10/19	Rebecca Bowman Digitally signed by Rebecca Bowman Date: 2019.06.10 14:14:18 -04'00'	6/10/19	Lora Howell Digitally signed by Lora Howell Date: 2019.06.10 14:21:31 -04'00'		
Date	Department Director's Signature	Date	Deputy Fin. Director's Signature	Date	City Manager's Signature

FINANCE USE ONLY:

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

City of Cocoa Budget Adjustment Form FY 2019 - 102

SELECT ADJUSTMENT TYPE: BUDGET AMENDMENT | REQUESTING DEPARTMENT #: FN | DATE PREPARED: 06/07/19

'REVENUE' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 1,324,369	103-0000-381.91-01	CP1504	TRANSFER FROM GENERAL FUND	$ 0	$ 19,937	$ 1,344,306	$ 1,344,306
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 1,324,369	TOTAL						

'EXPENSE' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 1,324,369	103-3240-554.62-00	CP1504	BUILDING	$ 0	$ 0	$ 1,324,369	$ 1,344,306
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 1,324,369	TOTAL						

REASON/JUSTIFICATION FOR ADJUSTMENT:

The General Fund is committing Fund Balance Reserves for the Dr. Joe Lee Smith Community Center Project so that the Purchase Order to the contractor can be issued and construction can begin. These funds will be reimbursed to the General Fund by the Section 108 Loan of ($894,000), CDBG Funds from FY 19 and 20 ($255,369) as well as CDBG monies from Brevard County ($175,000). Agenda 19-278

CITY COUNCIL APPROVAL REQUIRED? YES (●) NO ( ) DATE APPROVED: _____ RESOLUTION #: 2019-054

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

6/7/19	Lora Howell Digitally signed by Lora Howell Date: 2019.06.07 16:39:40 -04'00'	6/10/19	Lea Taylor Digitally signed by Lea Taylor Date: 2019.06.10 13:49:22 -04'00'		
Date	Requestor's Signature	Date	Finance Approval Signature	Date	Finance Director's Signature
6/10/19	Rebecca Bowman Digitally signed by Rebecca Bowman Date: 2019.06.10 14:13:26 -04'00'	6/10/19	Lora Howell Digitally signed by Lora Howell Date: 2019.06.10 14:22:29 -04'00'		
Date	Department Director's Signature	Date	Deputy Fin. Director's Signature	Date	City Manager's Signature

FINANCE USE ONLY:

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

Legislation Details (With Text)

File #:	19-217	**Version:**	1	**Name:**	
Type:	Resolution			**Status:**	Multi-Year Contract
File created:	5/6/2019			**In control:**	City Council
On agenda:	6/12/2019			**Final action:**	

Title: Accept Contractual Guaranteed Maximum Price (GMP) from W&J Construction in the amount of $4,550,013 for the Multi-Year, Multi-Phase Design Build (Fiscal Year 2019 and Fiscal Year 2020) of the Dr. Joe Lee Smith Community Center (RFQ 19-07-COC). Authorize the City Manager to finalize and execute the design-build contract with W & J Construction and issue a change order adding $4,379,869 to the original purchase order. Approve a Resolution Amending the FY2019 Budget. Approve a Resolution modifying Resolution No. 2019-004 regarding the guaranteed maximum price and project contingency amount for the Joe Lee Smith Project. (Public Works Director)

Sponsors:

Indexes:

Code sections:

Attachments:
$4,379,869 - Joe Lee Smith Construction GMP.pdf
Budget Resolution FY 2019.pdf
Master Design Build Contract-cml.pdf
A141-2014 - Working Draft - 003 (DB Agreement)-cml.pdf
A141ExhibitA-2014 - Working Draft - 003 (DB Amendment)-cml.pdf
A141ExhibitB-2014 - Working Draft - 003 (Insurance and Bonds)-cml.pdf
BAF 19-098 -FN-WJ Construction (6-12-19)~ Agenda 19-217.pdf
2019-004 (Auth. CM to negotiate a GMP and enter contract with W _ J Constru
Contingency Resolution.pdf

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: May 6, 2019
Agenda Date: June 12, 2019
Prepared By: Gary Palmer, Capital Projects Manager
Frank Mirabito, Project Manager
Through: Everett J. Wegerif, P.E., Public Works Director, City Engineer
Requested Action:

Accept Contractual Guaranteed Maximum Price (GMP) from W&J Construction in the amount of $4,550,013 for the Multi-Year, Multi-Phase Design Build (Fiscal Year 2019 and Fiscal Year 2020) of the Dr. Joe Lee Smith Community Center (RFQ 19-07-COC). Authorize the City Manager to finalize and execute the design-build contract with W & J Construction and issue a change order adding $4,379,869 to the original purchase order. Approve a Resolution Amending the FY2019 Budget. Approve a Resolution modifying Resolution No. 2019-004 regarding the guaranteed maximum price and project contingency amount for the Joe Lee Smith Project.

BACKGROUND:

On January 9, 2019, Council accepted a soft GMP amount of $3,295,839 for the construction of this Community Center. The Final Contractual GMP of $4,550,013 includes additional elements for the Project: additional parking, additional site work for storm water, resurfacing of the outdoor basketball court and both swimming pools, and additional building square footage provided to the Brevard Action Team. The City is also repurposing some of the existing amenities including field lighting, prefabricated restrooms, and a pavilion.

STRATEGIC PLAN CONNECTION:

Identified in the Diamond Square Redevelopment Plan Update (2014), the existing Dr. Joe Lee Smith Center is outdated, functionally obsolescent for its intended purposes, and lacks the space required for the services which have been identified as needed in the neighborhood. Moreover, significant concerns exist regarding the existing center regarding plumbing, electrical and potential asbestos and lead-based paint (of which the latter two will be assessed post-construction of the new center). The Center will serve as a neighborhood anchor for a revitalized Stone Street and help to stabilize the neighborhood to assist in facilitating economic growth and revitalization in the area and along corridor.

The area known as Diamond Square, represented by the Diamond Square Community Redevelopment Agency, is a proud community, but also a one home to a high number of disadvantaged and underserved residents that has suffered decades of disinvestment of decline. Although, the past few years have seen public and private capital investment and the Center should enable the community, along with that growth, to experience a renewed interest in affordable and attainable housing. Proposed services for this Community Center include health care, senior programs, workforce training and services, educational assistance, youth recreation, and a community meeting space.

Once completed, Brevard County Parks and Recreation will maintain and operate this Community Center. The Brevard Community Action Team will also occupy a portion of office space, which they currently operate out of the undersized facility at Provost Park. The Cocoa Police Athletic League is also expected to host activities at this location.

The primary sources of funding for this project include the General Fund, a CDBG Section 108 Loan Guarantee, CDBG program funds, and the Diamond Square CRA. Additionally, Brevard County through their CDBG program will assist in funding this project with spaced being constructed to house the Community Action Team. Below is the budgetary impact and identification of budgetary revenue sources.

BUDGETARY IMPACT:

Budgeted	Yes
If not budgeted, is amendment/transfer attached?	Yes

Budget Adjustment Form # 2019-098 (Reallocate FY 2019 budget)

Amount Requested ($1,214,365)

powered by Legistar™

Account Number 301-3580-519.62-00 CP1504
Account Name Capital Projects - Buildings

Amount Requested $613,645
Account Number 301-3580-519.63-00 CP1504
Account Name Capital Projects - Infrastructure

Amount Requested $600,720
Account Number 301-3580-519.64-00 CP1504
Account Name Capital Projects - Machinery/Equipment

Budgeted Funds:

Amount Requested $2,253,349 (Inclusive of $289,558 Contingency)
Account Number 301-3580-519.62-00 CP1504
Account Name Capital Projects - Buildings

Other Funding Sources:

Diamond Square (Pool)
Amount Requested $47,488
Account Number 111-3230-559.63-00 CP1504
Account Name Capital Projects - Infrastructure

Section 108 Loan
Amount Requested $894,000
Account Number 103-3240-554.62-00 CP1504
Account Name Capital Projects - Buildings

CDBG Funds FY 2019 Budget
Amount Requested $190,000
Account Number 103-3240-554.62-00 CP1504
Account Name Capital Projects - Buildings

CDBG Funds FY 2020 Budget
Amount Requested $65,369
Account Number 103-3240-554.62-00 CP1504
Account Name Capital Projects - Buildings

CDBG Funds (Brevard County)
Amount Requested $175,000
Account Number 103-3240-554.62-00 CP1504
Account Name Capital Projects - Buildings

Amount Requested $4,550,013 (Includes original P.O.)
Project Contingency $289,558

Source of Funds: ____ State Revolving Loan
_X__ Other Loan Source:

____ Grant Source:
____ Bond:
_X__ Reserves Source:
_X__ Transfer Acct #:

If a P.O. Change Order is involved, please complete the following:

Change Order Amount $_4,379,869

Original Purchase Order _74150
Original P.O. Amount _$ 170,144
For this Agenda Item note Prior Change Order Information:
Total number of change orders to date __0
Total amount in change orders to date _$ 0_

PREVIOUS ACTION:

July 24, 2018 City Council approved item V.I - task order in the amount of $98,675.55 to Architects RZK, Inc. for the Design Criteria Package of the Dr. Joe Lee Smith Community Center.

January 9, 2019 City Council approved Item VIII.4 ranking W&J Design Build Team as the top ranked firm, accepting a soft GMP amount of $3,295,839, establishing a contingency amount of $150,000, and approve a resolution authorizing the City Manager to negotiate and enter into a design build contract for the construction of the Dr. Joe Lee Smith Community Center (RFQ 19-07-COC) and the site work related to the building and did not include the costs associated with the site work for the overall project.

RECOMMENDED MOTION:

Accept Contractual Guaranteed Maximum Price (GMP) from W&J Construction in the amount of $4,550,013 for the Multi-Year, Multi-Phase Design Build (Fiscal Year 2019 and Fiscal Year 2020) of the Dr. Joe Lee Smith Community Center (RFQ 19-07-COC). Authorize the City Manager to finalize and execute the design-build contract with W & J Construction and issue a change order adding $4,379,869 to the original purchase order. Approve a Resolution Amending the FY2019 Budget. Approve a Resolution modifying Resolution No. 2019-004 regarding the guaranteed maximum price and project contingency amount for the Joe Lee Smith Project.

Item	Sec	Description	Material	Labor	Sub	Notes
		Building and Both Site Stages				
	1	***General Conditions***				
1		General Conditions	0	129,710	113,597	W&J Field Costs
1a		A&E Construction Administration	0	0	15,200	Tsark
1b		Commissioning	0	0	7,500	Tsark
1c		Testing	0	0	0	By Owner
		Existing Conditions				
2		Demolition not Included in Original PO	0	0	11,375	SS&S
	3	***Concrete***				
3		Cast In Place Concrete	0	0	233,920	Leo's
3a		- Retaining Wall Foundations	0	0	15,810	Leo's
3b		-Mechanical Pads	0	0	2,000	Leo's
4		Concrete Polishing	0	0	7,649	Polished Solution
	4	***Masonry***				
5		Masonry Bldg and Dumpster	0	0	319,815	Leo's
5a		-Retaining Wall Masonry	0	0	13,840	Leo's
	5	***Metals***				
6		Structural Steel	0	0	144,553	Space Coast General Contractors
	6	***Carpentry***				
7		Rough Carpentry	0	0	89,900	TJ McDonald
7a		-Frame and Hardi 6 Exterior columns	0	0	2,880	TJ McDonald
8		Lumber Package	0	0	42,045	84 Lumber
8a		-Hardy Plank	0	0	0	In Line 8
9		Wood Trusses	0	0	32,539	Truss Wood
10		Cabinets	0	0	20,050	Elegance By Design
	7	***Thermal and Moisture Protection***				
11		Core Fill Insulation	0	0	7,052	Southern Foam
12		Blown Insulation	0	0	5,960	Gale
13		Stucco	0	0	143,178	Extreme Plastering
14		-Stone Veneer	0	0	0	Extreme Plastering
15		Roofing	0	0	149,738	G&G
15a		Soffits, Flashings and Trims	0	0	41,618	G&G
15b		Gutters and Downspouts	0	0	0	G&G In Line 15
16		Joint Sealants	0	0	16,240	Mid State
16a		Dampproofing	0	0	8,500	W&J
	8	***Doors and Windows***				
17		Doors, Frames and Hardware	0	0	67,202	Cajun
18		-Install Doors	0	0	0	In Line 17
19		Access Doors and Panels	0	0	900	W&J
20		Rolling Counter Door (Aluminum)	0	0	2,997	Florida Door Solutions
21		Aluminum Framed Entrances	0	0	87,612	Atlantic Glass
21a		-Large Mirrors	0	0	800	W&J
	9	***Finishes***				
22		Gyp Board and Framing	0	0	146,815	BFD
22a		-Exterior Metal Framing	0	0	0	BFD
23		Acoustic Ceilings	0	0	16,330	Accurate Acoustics
24		Flooring and Tile	0	0	41,200	Spec 9
24a		*-Moisture Mitigation of Slab*	0	0	0	**Excluded**
25		Epoxy Flooring	0	0	5,980	Horizon
26		Sports Flooring By Conner	0	0	54,750	Trident Surfacing
27		Painting	0	0	36,900	Dave Goodman
	10	***Specialties***				
28		Signage for Interior	0	800	0	**OFCI**
28a		Digital Sign Board	0	0	30,000	**Allowance**
29		Knox Box	0	0	475	W&J
30		Toilet Compartments	0	0	7,650	DSG
30a		Toilet Accessories and RR signs	0	0	5,870	DSG
30b		-Electric Hand Dryers	0	0	0	DSG

Item	Sec	Description	Material	Labor	Sub	Notes
31		Corner Guards	0	0	735	DSG
32		Fire Extinguishers and Cabinets	0	0	1,033	DSG
	11	***Equipment***				
33		Kitchen Equipment	0	0	25,499	Paynes Restaurant Supply
34		Sports Equipment	0	0	20,050	Storage Craft
34a		-VolleyBall Equipment	0	0	0	Storage Craft
34b		-BB Backstops	0	0	0	Storage Craft
34c		*-Bleachers*	0	0	28,000	Storage Craft
34d		*-Wall Pads*	0	0	3,500	Storage Craft
34e		-Scoreboards	0	0	9,000	**Allowance**
35		Wall Safe (OFCI)	0	200	0	W&J
	21	***Fire Suppression***				
36		Fire Sprinkler	0	0	44,500	Weaver Fire
	22	***Plumbing***				
37		Plumbing	0	0	143,480	Sun Plumbing
	23	***HVAC***				
38		HVAC	0	0	376,829	HM2
38a		-Kitchen Hoods	0	0	0	HM2
38b		-T&B	0	0	0	HM2
	26	***Electrical***				
39		Electrical	0	0	325,275	Randall
39a		*-Reinstall One Ball Field Light for BB*	0	0	5,000	**Allowance**
39b		-Lightning Protection	0	0	0	**See Alternate**
39c		-Phone and Data	0	0	0	**By Owner**
39d		-Security/CCTV	0	0	0	**By Owner**
39e		-Access Control	0	0	0	**By Owner**
40		-PA System	0	0	10,000	**Allowance**
	28	***Electronic Safety and Security***				
41		Fire Alarm	0	0	0	Randall
	32	***Site Construction***				
42		Landscape and Irrigation	0	0	26,715	BlueH2O
42a		*-Plan Check Modifications*	0	0	5,000	**Allowance**
43		-Sod	0	0	0	BlueH2O
44		Earthmoving	0	0	370,411	Goodson
44a		-Mobilization	0	0	0	Goodson
44b		Erosion Control	0	0	0	**In Original PO**
44c		Tree Protection	0	0	0	**In Original PO**
44d		Asphalt Paving	0	0	0	Goodson
44e		-Seal and Stripe Existing Parking	0	0	0	Goodson
44f		Striping and Signage	0	0	0	Goodson
44g		Site Concrete	0	0	0	Goodson
44h		Water Utilities	0	0	0	Goodson
44i		Fire Underground	0	0	0	Goodson
44j		Sanitary Sewer	0	0	0	Goodson
44k		Storm Drainage	0	0	0	Goodson
44l		Grease Interceptor	0	0	0	Goodson
45		Surveying	0	0	24,630	Briel
45a		-Building Corners	0	0	0	Briel
46		Termite Control	0	0	777	Pro Tech
47		Fence and Gates	0	0	5,342	American Fence
48		Bike Rack	0	0	900	W&J
49		Relocate Benches	200	400	0	W&J
50		Resurface Pool and Decks	0	0	220,000	**Allowance**
50a		-Paint Pool Building to Match New	0	0	4,200	Dave Goodman
51		Resurface Basketball Court	0	0	9,400	Sport Surfaces
52		Playground Allowance	0	0	100,000	**Allowance**
53		*Relocate Prefab Restroom*	0	0	25,000	**Added Scope Allowance**

Item	Sec	Description	Material	Labor	Sub	Notes
		Subtotals	200	131,110	3,735,716	
		Sales Tax/PT&I (7/33)	14	43,266		
		Total	214	174,376	174,590	
					3,910,306	
		Permits and Impact Fees			0	**By Owner**
		General Liability Insurance (%)			28,469	
		Builder's Risk (Per $100)			14,454	
		Contingency Allowance	0.00		130,000	
		Bond			48,179	
		Hurricane Surcharge	1.13%		544	
		Cost			4,131,952	
		OH/Profit	6.0%		247,917	
		Total GMP For Construction			**4,379,869**	
		Does not include Design PO amount				

RESOLUTION NO. 2019-051

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AMENDING THE CITY OF COCOA BUDGET FOR FISCAL YEAR 2019; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Cocoa adopted the final budget for the fiscal year commencing on October 1, 2018, and ending on September 30, 2019, at a Special meeting held on September 13, 2018; and

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

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

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

SECTION 1. The 2018-2019 fiscal year budget shall be amended as detailed in the attached sheets.

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

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

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the 12th day of June, 2019.

_____
Jake Williams, Jr., Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk

MASTER AGREEMENT
DR. JOE LEE SMITH COMMUNITY CENTER
PROJECT No. CP1504

THIS MASTER AGREEMENT MADE THIS 12th of June 2019 between the **CITY OF COCOA**, a Florida municipal corporation (herein referred to as "OWNER") and **W & J CONSTRUCTION CORPORATION**, a Florida corporation authorized and duly licensed to do business in the State of Florida (herein referred to as "DESIGN-BUILDER"), as follows:

1. **DESCRIPTION OF WORK** - DESIGN-BUILDER shall perform the work (the "Work"), in accordance with the Contract Documents for the construction of the new Dr. Joe Lee Smith Community Center to be located on Stone St. in Cocoa, Florida.

2. **CONTRACT DOCUMENTS** - The "Contract Documents" or "Contract" consists of this Master Agreement and all other documents listed under Articles 1.4 and Article 16 of the Agreement. The "Agreement" consists of AIA Document A141 – 2014 and Exhibit A (Design-Build Amendment) and Exhibit B (Insurance and Bonds) thereof which are hereby deemed fully incorporated herein by this reference. The term Master Agreement shall be used interchangeably with the term Contract Documents to mean all of the documents constituting the contract to construct the new Fire Station. Order of precedence of the Contract Documents shall be as set forth in the Agreement.

3. **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 work descriptions and the DESIGN-BUILDER hereby agrees to abide by the OWNER's interpretation and agrees to carry out the work in accordance with the decision of the OWNER. Whenever Materials or Equipment are specified or described in the Contract Documents 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 DESIGN-BUILDER 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 DESIGN-BUILDER 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. DESIGN-BUILDER must notify the

OWNER prior to use of the substitute for a specified brand name and allow the OWNER to make a determination before DESIGN-BUILDER uses the substitute.

4. **PROJECT PHASES** - DESIGN-BUILDER acknowledges that the Work will consist of two phases:

Phase 1 - Completion of design and submission of permittable documents to the appropriate permitting entity(s) ("Design Phase I"); and

Phase II - Completion of Construction in accordance with the design ("Construction Phase II").

The Design Phase I and the Construction Phase II shall each be completed by the substantial and final completion dates specified in the Agreement. A Contract Sum consisting of a Design Phase I stipulated sum and a Construction Phase II stipulated sum, as defined in the Agreement, shall be as set forth in the Agreement.

5. **CONTRACT TIME** –

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

b. The Work shall be completed within the time frames as described in section 1.1.7 of the Agreement and section A.2.2 of the Design-Build Amendment.

i. Design Phase I – is complete at the execution of this Contract.

ii. Construction Phase II shall be substantially complete within 335 days from the later of the issuance of a building permit(s) sufficient to allow physical construction.

iii. The Work shall be finally completed, ready for Final Payment in accordance with the Contract Documents, within 30 days after the actual date of Substantial Completion of Construction Phase II.

c. The parties acknowledge that the Contract Time provided in the Contract Documents includes consideration of adverse weather conditions common to Central Florida's east coast, including the possibility of hurricanes and tropical storms.

d. Float time is allocated specifically to the DESIGN-BUILDER's responsibility for coordination of any utility relocations required to complete the Work. OWNER will not consider any Contract Time extensions related to utility coordination

matters including, but not limited to, utility relocations and conflicts, unless the utility relocation delays exceed the float time and also extend the Project Schedule's Critical Path.

6. **LIQUIDATED DAMAGES** - OWNER and DESIGN-BUILDER recognize that time is of the essence of to complete each Phase of the Work required by the Contract Documents and that OWNER will suffer financial loss if the Work is not substantially complete within the time specified in the Agreement, plus any extensions thereof allowed in accordance with the Contract Documents. OWNER and DESIGN-BUILDER also recognize the delays, expense, and difficulties involved in proving in a legal or mediated 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 DESIGN-BUILDER agree that as liquidated damages for delay (but not as a penalty) DESIGN-BUILDER shall pay OWNER:

   a. Design Phase I is complete at the signing of this Contract.

   b. $500.00 for each day that expires after the time specified in the Agreement for Substantial Completion of Construction Phase II until Construction Phase II is Substantially Complete; and

   c. $500.00 for each day that expires after the time specified in the Agreement for Final Completion of the Work until the Work is finally complete.

   By incorporation into the DESIGN-BUILDER's compensation for performing the Work, DESIGN-BUILDER acknowledges that OWNER has paid, to DESIGN-BUILDER consideration of Ten ($10.00) Dollars as consideration for this liquidated damages provision. The liquidated damages provided in this Section are intended to apply even if DESIGN-BUILDER is terminated, in default, or if the DESIGN-BUILDER has abandoned the Work.

7. **SEVERABILITY -** In the event any portion or part thereof of the Contract Documents is deemed invalid, against public policy, void, or otherwise unenforceable by a court of law, the parties, at the sole discretion and option of the OWNER, shall negotiate an equitable adjustment in the affected provision of the Contract Documents. The validity and enforceability of the remaining parts of the Contract Document shall otherwise be fully enforceable.

8. **PROGRESS MEETING –** 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. DESIGN-BUILDER's Project Manager and all other appropriate personnel shall attend such meetings as designated by the OWNER'S Project Manager.

9. **THIRD PARTY RIGHTS -** Nothing in the Contract Documents shall be construed to give any rights or benefits to anyone other than OWNER and DESIGN-BUILDER, unless the Contract Documents expressly provide otherwise.

10. **PROHIBITION AGAINST CONTINGENT FEES -** DESIGN-BUILDER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the DESIGN-BUILDER, to solicit or secure this Master 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 DESIGN-BUILDER, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Master Agreement.

11. **NO JOINT VENTURE -** Nothing herein shall be deemed to create a joint venture or principal-agent relationship between OWNER and DESIGN-BUILDER, 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.

12. **CORPORATE REPRESENTATIONS BY DESIGN-BUILDER -** DESIGN-BUILDER hereby represents and warrants to the OWNER the following:

    a. DESIGN-BUILDER 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 signatory for DESIGN-BUILDER has the power, authority, and the legal right to enter into and perform the obligations set forth in the Contract Documents and all applicable exhibits thereto, and the execution, delivery, and performance hereof by DESIGN-BUILDER has been duly authorized by the board of directors and/or president of DESIGN-BUILDER. In support of said representation, DESIGN-BUILDER 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. DESIGN-BUILDER 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, DESIGN-BUILDER agrees to provide a copy of all said licenses to the OWNER prior to the execution of this Master Agreement.

13. **BONDS** - DESIGN-BUILDER shall supply a materials, performance and payment bond(s) in accordance with Florida law and in the form attached to the Agreement Exhibit B. The materials, performance, and payment amounts shall be in an amount

equal to the total Guaranteed Maximum Price for the Work. The issuance of bonds required under this Agreement shall not relieve Design-Builder of any liability under the Agreement. Design-Builder shall remain joint and severally liable with any surety issuing a bond under the Contract.

14. **INSURANCE -** During the term of this Master Agreement, DESIGN-BUILDER shall be responsible for providing the types of insurance and limits of liability as set forth In the Design-Build Agreement, Exhibit B. All independent contractors and subcontractors employed by DESIGN-BUILDER to perform any Work hereunder shall have adequate insurance coverage and shall fully comply with the minimum requirements provided by Florida law.

15. **GOVERNING LAW & VENUE -** This Master 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 in the United States District Court for the Middle District of Florida, Orlando Division.

16. **ATTORNEY'S FEES -** Should either party bring an action to enforce any of the terms of the Contract, the prevailing party shall be entitled, to the extent permitted by law, to recover from the non-prevailing party the costs and expenses of such action including, but not limited to, reasonable attorney's fees, whether at settlement, trial or on appeal.

17. **NOTICES** - Any notice or approval under this Master Agreement shall be sent, postage prepaid, to the applicable party at the following address:

City of Cocoa
65 Stone Street
Cocoa, Florida 32922

ATTN:_____

W & J Construction Corporation
1038 Harvin Way, Suite 120
Rockledge, FL 32955

ATTN:_____

Either party may change the notice address by providing the other party written notice of the change.

18. **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 DESIGN-BUILDER is such that the DESIGN-BUILDER is an independent contractor and not an agent of the OWNER. The DESIGN-BUILDER, its contractors, partners, agents, and their employees are independent contractors and not employees of the OWNER. Nothing in this Master Agreement shall be interpreted to establish any relationship other than that of an independent contractor, between the OWNER, on one hand, and the DESIGN-BUILDER, its contractors, partners, employees, or agents, during or after the performance of the Work under this Agreement.

18. **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 DESIGN-BUILDER and its independent contractors and associates related, directly or indirectly, to the Contract, may be deemed to be a Public Record whether in the possession or control of the OWNER or the DESIGN-BUILDER. Said record, document, computerized information and program, audio or video tape, photograph, or other writing of the DESIGN-BUILDER 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 DESIGN-BUILDER shall promptly supply copies of said public records to the OWNER. All books, cards, registers, receipts, documents, and other papers in connection with this Master Agreement shall at any and all reasonable times during the normal working hours of the DESIGN-BUILDER be open and freely exhibited to the OWNER for the purpose of examination and/or audit. The DESIGN-BUILDER acknowledges that the OWNER is a Florida municipal corporation and subject to the Florida Public Records Law. DESIGN-BUILDER agrees that to the extent any document produced by DESIGN-BUILDER under this Master Agreement constitutes a Public Record; DESIGN-BUILDER shall comply with the Florida Public Records Law.

19. **SOVEREIGN IMMUNITY** - Notwithstanding any other provision set forth in the Contract, nothing contained in the Contract shall be construed as a waiver of the OWNER'S right to sovereign immunity under Section 768.28, or other limitations imposed on the OWNER'S potential liability under state or federal law. As such, the OWNER shall not be liable, under the Contract for punitive damages or interest for the period before judgment. Further, the OWNER 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).

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

21. **INTEGRATION; MODIFICATION** - The drafting, execution, and delivery of the Contract by the Parties has not been induced by any representations, statements, warranties, or agreements other than those expressed herein. The Contract 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 the Contract shall only be made in writing signed by both parties.

22. **WAIVER AND ELECTION OF REMEDIES -** Waiver by either party of any terms, or provision of the Contract Documents 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 the Contract Documents shall be binding unless in writing and signed by a duly authorized representative of each party hereto. The Contract Documents 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.

23. **DRAFTING** - OWNER and DESIGN-BUILDER each represent that they have both shared equally in drafting the Contract Documents and no party shall be favored or disfavored regarding the interpretation of the Contract Documents in the event of a dispute between the parties.

SIGNATURES FOLLOW

Signed, Sealed and Delivered in the presence of:

DESIGN-BUILDER:
W & J CONSTRUCTION CORPORATION

_____

_____
Print Name and Title

Date_____

OWNER:
CITY OF COCOA

_____
By: John Titkanich, City Manager

Date_____

DRAFT

AIA® Document A141™ – 2014

Standard Form of Agreement Between Owner and Design-Builder

AGREEMENT made as of the twelfth day of June in the year two thousand nineteen
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

City of Cocoa, Municipal Agency
65 Stone Street
Cocoa, Florida 32922

and the Design-Builder:
(Name, legal status, address and other information)

W & J Construction Corporation
1038 Harvin Way, Suite 120
Rockledge, FL 32955

for the following Project:
(Name, location and detailed description)

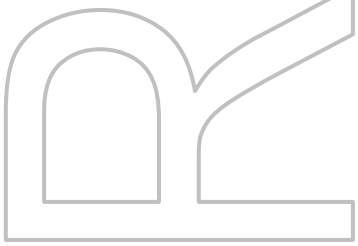
DR. JOE LEE SMITH COMMUNITY CENTER
PROJECT No. CP1504
415 Stone St.
Cocoa, FL 32922

The Owner and Design-Builder agree as follows.

ADDITIONS AND DELETIONS: The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.





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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Owner's Criteria

This Agreement is based on the Owner's Criteria set forth in this Section 1.1.

§ 1.1.1 The Owner's program for the Project:

See City of Cocoa Request for Qualifications RFQ #Q-19-07-COC dated October 8, 2018

§ 1.1.2 The Owner's design requirements for the Project and related documentation:

See City of Cocoa Request for Qualifications RFQ #Q-19-07-COC dated October 8, 2018

§ 1.1.3 The Project's physical characteristics:

See City of Cocoa Request for Qualifications RFQ #Q-19-07-COC dated October 8, 2018

§ 1.1.4 The Owner's anticipated Sustainable Objective for the Project, if any:

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See City of Cocoa Request for Qualifications RFQ #Q-19-07-COC dated October 8, 2018

§ 1.1.5 Incentive programs the Owner intends to pursue for the Project, including those related to the Sustainable Objective, and any deadlines for receiving the incentives that are dependent on, or related to, the Design-Builder's services, are as follows:

None

§ 1.1.6 The Owner's budget for the Work to be provided by the Design-Builder is set forth below:

Design Phase I: $170,144.00
Construction Phase II : $4,379,869.00

§ 1.1.7 The Owner's design and construction milestone dates:

.1 Design phase milestone dates:

None: Completed prior to the execution of this agreement.

.2 Submission of Design-Builder Proposal:

None: Completed prior to the execution of this agreement.

.3 Phased completion dates:

Design Phase I – Final completion of design and submission of permit documents: NA - Completed prior to the execution of this agreement.

Construction Phase II - Substantial Completion: 335 days from the later of issuance of a building permit(s) sufficient to allow physical construction to begin. Final Completion of the Work: 30 days following Substantial Completion of Construction Phase II.

§ 1.1.8 The Owner requires the Design-Builder to retain the following Architect, Consultants and Contractors at the Design-Builder's cost:

.1 Architect

See the Design-Builder's Response to Part 1, Request for Qualifications #Q-19-07-COC, dated November 8, 2018 ("RFQ Response") and Design Builder's Response to Part 2, Request for Proposals dated December 18, 2018 and written modifications to the Proposal accepted by the Owner, if any ("RFP Response")

.2 Consultants

See the RFQ Response and RFP Response.

.3 Contractors

See RFQ Response and RFP Response

§ 1.1.9 Additional Owner's Criteria upon which the Agreement is based:

See City of Cocoa Request for Qualifications RFQ #Q-19-07-COC dated October 8, 2018 and Request for Proposal #Q-19-07-COC dated December 18, 2018

§ 1.1.10 The Design-Builder shall confirm that the information included in the Owner's Criteria complies with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

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§ 1.1.10.1 If the Owner's Criteria conflicts with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner of the conflict.

§ 1.1.11 If there is a change in the Owner's Criteria, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 1.1.12 If the Owner and Design-Builder intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions. Unless otherwise agreed, the parties will use AIA Document E203™–2013 to establish the protocols for the development, use, transmission, and exchange of digital data and building information modeling.

§ 1.2 Project Team

§ 1.2.1 The Owner identifies the following representative in accordance with Section 7.1.1:
(List name, address and other information.)

Gary Palmer, Facilities Manager
155 North Wilson St., Cocoa, FL 32922
321-433-8772

§ 1.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:
(List name, address and other information.)

Tsark Architecture, LLC
1990 W. New Haven Ave, Suite 306
Melbourne, FL 32904
321-241-6378

§ 1.2.3 The Owner will retain the following consultants and separate contractors:
(List discipline, scope of work, and, if known, identify by name and address.)

Architects RZK, Inc.
600 Florida Ave, Suite 201, Cocoa, FL 32922
321-631-8039

§ 1.2.4 The Design-Builder identifies the following representative in accordance with Section 3.1.2:
(List name, address and other information.)

W&J Construction Corporation
Nick Witek, President; Erik Costin, Vice President and Chad Laston, Project Manager
1038 Harvin Way, Suite 120
Rockledge, FL 32955
321.632.7660 (o) 321.522.9011 (m)
chad@wjconstruction.com

§ 1.2.5 Neither the Owner's nor the Design-Builder's representative shall be changed without ten days' written notice to the other party.

§ 1.3 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 14.3, the method of binding dispute resolution shall be the following:

[X] Litigation in a court of competent jurisdiction

§ 1.4 Definitions

§ 1.4.1 Design-Build Documents. The Design-Build Documents consist of the Master Agreement, this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the "Agreement"); other documents listed in this Agreement; Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive; the RFP Response and the RFQ Response; City of Cocoa

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Request for Qualifications RFQ #Q-19-07-COC dated October 8, 2018 and Request for Proposal #Q-19-07-COC dated December 18, 2018.

§ 1.4.2 The Contract. The Design-Build Documents form the Contract. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Design-Build Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder.

§ 1.4.3 The Work. The term "Work" means the design, construction and related services required to fulfill the Design-Builder's obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Design-Builder. The Work may constitute the whole or a part of the Project.

§ 1.4.4 The Project. The Project is the total design and construction of which the Work performed under the Design-Build Documents may be the whole or a part, and may include design and construction by the Owner and by separate contractors.

§ 1.4.5 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Architect, and Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.

§ 1.4.6 Submittal. A Submittal is any submission to the Owner for review and approval demonstrating how the Design-Builder proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

§ 1.4.7 Owner. The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representative.

§ 1.4.8 Design-Builder. The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Design-Builder" means the Design-Builder or the Design-Builder's authorized representative.

§ 1.4.9 Consultant. A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. To the extent required by the relevant jurisdiction, the Consultant shall be lawfully licensed to provide the required professional services.

§ 1.4.10 Architect. The Architect is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice architecture in the applicable jurisdiction. The Architect is referred to throughout the Design-Build Documents as if singular in number.

§ 1.4.11 Contractor. A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

§ 1.4.12 Intentionally Deleted.

§ 1.4.13 Contract Time. Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, as set forth in the Design-Build Amendment for Substantial and Final Completion of the Work.

§ 1.4.14 Day. The term "day" as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

§ 1.4.15 Contract Sum. The Contract Sum is the amount to be paid to the Design-Builder for performance of the Work after execution of the Design-Build Amendment, as identified in Article A.1 of the Design-Build Amendment.

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ARTICLE 2 COMPENSATION AND PROGRESS PAYMENTS

§ 2.1 Compensation for Work Performed During Design Phase I

§ 2.1.1 Unless otherwise agreed, payments for Work performed during Design Phase I shall be made monthly for work completed during the month prior to submission of Design-Builder's invoice. For the Design-Builder's performance of Work during Design Phase I, the Owner shall compensate the Design-Builder as follows:

A Design Phase I Stipulated Sum of One Hundred and Seventy Thousand, One-Hundred and Forty-Four and 00/00 Dollars ($170,144.00), subject to additions and deductions as may be agreed to between Design-Builder and Owner. Unless modified by agreed additions between Owner and Design-Builder, costs incurred during Design Phase I that would cause the Design Phase I Stipulated Sum to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner.

§ 2.1.2 Intentionally Deleted.

§ 2.1.3 Intentionally Deleted.

§ 2.1.4 Payments to the Design-Builder during Design Phase I

§ 2.1.4.1 Payments are due and payable upon presentation of the Design-Builder's invoice. Payments shall be made in accordance with the Florida Prompt Payment Act, Florida Statutes Section 218.70, *et seq*. Invoices for all work performed during Design Phase I must be submitted to the Owner at least ten (10) days prior to June 12, 2019.

§ 2.2 Payment for Work Performed during Construction Phase II

The Design-Builder's performance of the Work performed during Construction Phase II, the Owner shall pay to the Design-Builder the Construction Phase II Stipulated Sum in current funds as agreed in the Design-Build Amendment.

ARTICLE 3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

§ 3.1 General

§ 3.1.1 The Design-Builder shall comply with any applicable licensing requirements in the jurisdiction where the Project is located.

§ 3.1.2 The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder's behalf with respect to the Project.

§ 3.1.3 The Design-Builder shall perform the Work in accordance with the Design-Build Documents. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.

§ 3.1.3.1 The Design-Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.

§ 3.1.3.2 Neither the Design-Builder nor any Contractor, Consultant, or Architect shall be obligated to perform any act which they believe will violate any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. Upon verification by the Owner that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 3.1.4 The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Architect, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work.

§ 3.1.5 General Consultation. The Design-Builder shall schedule and conduct periodic meetings with the Owner to review matters such as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.6 When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals. The Owner understands and agrees that the services of the Design-Builder's Architect and the Design-Builder's other Consultants are performed in the sole interest of, and for the exclusive benefit of, the Design-Builder.

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§ 3.1.7 The Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

§ 3.1.8 Progress Reports

§ 3.1.8.1 The Design-Builder shall keep the Owner informed of the progress and quality of the Work. On a monthly basis, or otherwise as agreed to by the Owner and Design-Builder, the Design-Builder shall submit written progress reports to the Owner, showing estimated percentages of completion and other information identified below:

.1 Work completed for the period;
.2 Project schedule status;
.3 Submittal schedule and status report, including a summary of outstanding Submittals;
.4 Responses to requests for information to be provided by the Owner;
.5 Approved Change Orders and Change Directives;
.6 Pending Change Order and Change Directive status reports;
.7 Tests and inspection reports;
.8 Status report of Work rejected by the Owner;
.9 Status of Claims previously submitted in accordance with Article 14;
.10 Cumulative total of the Cost of the Work to date;
.11 Current Project cash-flow and forecast reports; and
.12 Additional information as agreed to by the Owner and Design-Builder.

§ 3.1.9 Design-Builder's Schedules

§ 3.1.9.1 The Design-Builder, promptly after execution of this Agreement, shall prepare and submit for the Owner's information a schedule for the Work. The schedule, including the time required for design and construction, shall not exceed time limits current under the Design-Build Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.9.2 The Design-Builder shall perform the Work in general accordance with the most recent schedules submitted to the Owner.

§ 3.1.9.3 If Owner determines that Design-Builder is failing to maintain progress of the Work in accordance with the Progress schedules, Design-Builder shall take steps as may be necessary to improve its progress, and Owner may require Design-Builder to increase its Work force, or hours, or days of Work, or the amount of construction plant or all of them, and to submit to Owner for approval such supplementary schedule or schedules as may be deemed necessary to demonstrate the manner in which the requisite progress will be regained and maintained, all without time extensions or additional cost to Owner. Failure of Design-Builder to comply with the requirements of Owner under this Section shall be grounds for determination by Owner that Design-Builder is not prosecuting the Work with such diligence as will insure completion within the time specified. Owner will then so inform Owner. Owner may thereupon withhold additional retainage in anticipation of liquidated damages as provided in Article A.2 of the Design-Build Amendment or suspend the Work or terminate Design-Builder's services should Design-Builder fail to comply with this Section.

§ 3.1.10 Certifications. Upon the Owner's written request, the Design-Builder shall obtain from the Architect, Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services provided by the Architect, Consultants, and Contractors (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications. The Design-Builder's Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 3.1.11 Design-Builder's Submittals

§ 3.1.11.1 Prior to submission of any Submittals, the Design-Builder shall prepare a Submittal schedule, and shall submit the schedule for the Owner's approval. The Owner's approval shall not unreasonably be delayed or withheld. The Submittal schedule shall (1) be coordinated with the Design-Builder's schedule provided in Section 3.1.9.1, (2) allow the Owner reasonable time to review Submittals, and (3) be periodically updated to reflect the progress of the Work. If the Design-Builder fails to submit a Submittal schedule, the Design-Builder shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of Submittals.

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§ 3.1.11.2 By providing Submittals the Design-Builder represents to the Owner that it has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Design-Build Documents.

§ 3.1.11.3 The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner has approved the respective Submittal.

§ 3.1.11.4 The Work shall be in accordance with approved Submittals except that the Design-Builder shall not be relieved of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing of a deviation from the Design-Build Documents at the time of the Submittal and a Modification is executed authorizing the identified deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's approval of the Submittals.

§ 3.1.11.5 All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 3.1.12 Warranty. The Design-Builder warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Design-Build Documents require or permit otherwise. The Design-Builder further warrants that the Work will conform to the requirements of the Design-Build Documents and will be free from defects, except for those inherent in the quality of the Work or otherwise expressly permitted by the Design-Build Documents. Work, materials, or equipment not conforming to these requirements may be considered defective. The Design-Builder's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Design-Builder, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.1.13 Royalties, Patents and Copyrights

§ 3.1.13.1 The Design-Builder shall pay all royalties and license fees.

§ 3.1.13.2 The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contractors and consultants harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Owner, or where the copyright violations are required in the Owner's Criteria. However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

§ 3.1.14 Indemnification

§ 3.1.14.1 To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, including the Owner's agents and employees, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, but only to the extent caused by the negligent acts or omissions of the Design-Builder, Architect, a Consultant, a Contractor, a subcontractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.1.14.

§ 3.1.14.2 The indemnification obligation under this Section 3.1.14 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Design-Builder, Architect, a Consultant, a Contractor, a subcontractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts or other employee benefit acts.

§ 3.1.15 Contingent Assignment of Agreements

§ 3.1.15.1 Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner, provided that

- **.1** assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Architect, Consultants, and Contractors whose agreements are accepted for assignment; and
- **.2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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When the Owner accepts the assignment of an agreement, the Owner assumes the Design-Builder's rights and obligations under the agreement.

§ 3.1.15.2 Upon such assignment, if the Work has been suspended for more than 30 days, the compensation under the assigned agreement shall be equitably adjusted for increases in cost resulting from the suspension.

§ 3.1.15.3 Upon such assignment to the Owner under this Section 3.1.15, the Owner may further assign the agreement to a successor design-builder or other entity. If the Owner assigns the agreement to a successor design-builder or other entity, the Owner shall nevertheless remain legally responsible for all of the successor design-builder's or other entity's obligations under the agreement.

§ 3.1.16 Design-Builder's Insurance and Bonds. The Design-Builder shall purchase and maintain insurance and provide bonds as set forth in Exhibit B.

ARTICLE 4 WORK DURING DESIGN PHASE I

§ 4.1 General

§ 4.1.1 Any information submitted by the Design-Builder, and any interim decisions made by the Owner, shall be for the purpose of facilitating the design process and shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.1.2 The Design-Builder shall advise the Owner on proposed site use and improvements, selection of materials, and building systems and equipment. The Design-Builder shall also provide the Owner with recommendations, consistent with the Owner's Criteria, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 4.2 Evaluation of the Owner's Criteria

§ 4.2.1 The Design-Builder shall schedule and conduct meetings with the Owner and any other necessary individuals or entities to discuss and review the Owner's Criteria as set forth in Section 1.1.The Design-Builder shall thereafter again meet with the Owner to discuss a preliminary evaluation of the Owner's Criteria. The preliminary evaluation shall address possible alternative approaches to design and construction of the Project and include the Design-Builder's recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall consider cost information, constructability, and procurement and construction scheduling issues.

§ 4.2.2 After the Design-Builder meets with the Owner and presents the preliminary evaluation, the Design-Builder shall provide a written report to the Owner, summarizing the Design-Builder's evaluation of the Owner's Criteria. The report shall also include

- **.1** allocations of program functions, detailing each function and their square foot areas;
- **.2** a preliminary estimate of the Cost of the Work, and, recommendations to value engineer the Work;
- **.3** a preliminary schedule, which shall include proposed design milestones; dates for receiving additional information from, or for work to be completed by, the Owner; anticipated date for the Design-Builder's Proposal; and dates of periodic design review sessions with the Owner; and

§ 4.2.3 The Owner shall review the Design-Builder's written report and, if acceptable, provide the Design-Builder with written consent to proceed to the development of the Preliminary Design as described in Section 4.3. The consent to proceed shall not be understood to modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.3 Preliminary Design

§ 4.3.1 Upon the Owner's issuance of a written consent to proceed under Section 4.2.3, the Design-Builder shall prepare and submit a Preliminary Design to the Owner. The Preliminary Design shall include a report identifying any deviations from the Owner's Criteria, and shall include the following:

- **.1** Confirmation of the allocations of program functions;
- **.2** Site plan;
- **.3** Building plans, sections and elevations;
- **.4** Structural system;
- **.5** Selections of major building systems, including but not limited to mechanical, electrical and plumbing systems; and
- **.6** Outline specifications or sufficient drawing notes describing construction materials.

The Preliminary Design may include some combination of physical study models, perspective sketches, or digital modeling.

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§ 4.3.2 The Owner shall review the Preliminary Design and, if acceptable, provide the Design-Builder with written consent to proceed to development of the Design-Builder's Proposal. The Preliminary Design shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.4 Design-Builder's Proposal

§ 4.4.1 Upon the Owner's issuance of a written consent to proceed under Section 4.3.2, the Design-Builder shall prepare and submit the Design-Builder's Proposal to the Owner. The Design-Builder's Proposal shall include the following:

- **.1** A list of the Preliminary Design documents and other information, including the Design-Builder's clarifications, assumptions and deviations from the Owner's Criteria, upon which the Design-Builder's Proposal is based;
- **.2** The proposed Construction Phase II Stipulated Sum;
- **.3** The proposed date the Design-Builder shall achieve Substantial Completion;
- **.4** An enumeration of any qualifications and exclusions, if applicable; and
- **.5** A list of the Design-Builder's key personnel, Contractors and suppliers.

§ 4.4.2 Submission of the Design-Builder's Proposal shall constitute a representation by the Design-Builder that it has visited the site and become familiar with local conditions under which the Work is to be completed.

§ 4.4.3 If the Owner and Design-Builder agree on a proposal, then the Owner and Design-Builder shall execute a Contract modification adjusting the Construction Phase II Stipulated Sum, if necessary, and the Design-Builder shall prepare the Construction Documents. The Construction Documents shall establish the quality levels of materials and systems required. The Construction Documents shall be consistent with the Design-Build Documents.

§ 4.4.3.1 The Design-Builder shall provide the Construction Documents to the Owner for the Owner's information. If the Owner discovers any deviations between the Construction Documents and the Design-Build Documents, the Owner shall promptly notify the Design-Builder of such deviations in writing. The Construction Documents shall not modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

§ 4.4.4 Following completion of the Construction Documents, Design-Builder shall submit necessary documents to the appropriate entity(s) to obtain building and any other permit(s) required.

ARTICLE 5 WORK DURING CONSTRUCTION PHASE II

§ 5.1 Receipt of Building Permit(S)

§ 5.1.1 Upon receipt of necessary building and any other required Permits or June 12, 2019 whichever date is later, Construction Phase II shall begin.

§ 5.2 Construction

§ 5.2.1 Commencement. Except as permitted in Section 5.2.2, construction shall not commence prior to final completion of Design Phase I or June 12, 2019, whichever date is later.

§ 5.2.2 If the Owner and Design-Builder agree in writing, construction may proceed prior to final completion of Design Phase I or June 12, 2019. However, such authorization shall not waive the Owner's right to reject the Design-Builder's Proposal.

§ 5.2.3 The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention. The Design-Builder shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Design-Build Documents give other specific instructions concerning these matters.

§ 5.2.4 The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 5.3 Labor and Materials

§ 5.3.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services, necessary for proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

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§ 5.3.2 When a material or system is specified in the Design-Build Documents, the Design-Builder may make substitutions only in accordance with Article 6.

§ 5.3.3 The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work. The Design-Builder shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 5.4 Taxes

The Design-Builder shall pay sales, consumer, use and similar taxes, if applicable, for the Work provided by the Design-Builder, that are legally enacted when Construction Phase II commences, whether or not yet effective or merely scheduled to go into effect.
§5.4.1 As a public entity, Owner is not subject to Florida Sales and Use Tax, however, Owner's tax exemption does not extend to Design-Builder or its subcontractors or suppliers. Owner may elect, but is not obligated, to purchase certain materials for use on the project and Design-Builder agrees to participate in any program of Owner that will result in savings to the Owner. Any such savings shall be deducted from the Contract Sum by Change Order.

Design-Builder shall act as the Owner's purchasing agent for the purchase of such materials and thus, the Owner shall be the buyer in such transactions and, being a tax exempt governmental entity, the purchase transaction shall be tax exempt. However, should the Florida Department of Revenue ultimately conclude that sales tax should have been paid; the Design-Builder agrees to pay the sales taxes and the Contract Sum shall be adjusted accordingly. The Design-Builder shall not be obligated to defend the Owner against the Florida Department of Revenue for any actions by the Department claiming that sales taxes are due to the State.

The Design-Builder shall be responsible to place the orders for material selected by the Owner for purchase. The Purchase Order shall be issued by the Owner with the Owner's terms and conditions. Notwithstanding, nothing in this section shall relieve Design-Builder from its responsibility to comply with the Contract Documents with regard to the quality and functionality of materials used in the prosecution of the Work.

§ 5.5 Permits, Fees, Notices and Compliance with Laws

§ 5.5.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall secure and pay for the building permit as well as any other permits, fees, licenses, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project.

§ 5.5.2 The Design-Builder shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, applicable to performance of the Work.

§ 5.5.3 Concealed or Unknown Conditions. If the Design-Builder encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Design-Build Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Documents, the Design-Builder shall promptly provide notice to the Owner before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Owner shall promptly investigate such conditions and, if the Owner determines that they differ materially and cause an increase or decrease in the Design-Builder's cost of, or time required for, performance of any part of the Work, shall recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Design-Builder in writing, stating the reasons. If the Design-Builder disputes the Owner's determination or recommendation, the Design-Builder may proceed as provided in Article 14. Notwithstanding the above, float time is allocated specifically to the Design-Builder's responsibility for coordination of any utility relocations required to complete the Work. Owner will not consider any Contract Time extensions related to utility coordination matters including, but not limited to, utility relocations and conflicts, unless the utility relocation delays exceed the float time and also extend the Project Schedule's Critical Path.

§ 5.5.4 If, in the course of the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

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§ 5.6 Allowances

§ 5.6.1 The Contract Sum includes all allowances stated in the Design-Build Documents. Items covered by allowances shall be supplied for such amounts, and by such persons or entities as the Owner may direct, but the Design-Builder shall not be required to employ persons or entities to whom the Design-Builder has reasonable objection.

§ 5.6.2 Unless otherwise provided in the Design-Build Documents,

- **.1** allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** the Design-Builder's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts, shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever actual costs of allowance items are more than or less than allowance amounts, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 5.6.2.1 and (2) changes in Design-Builder's costs under Section 5.6.2.2.

§ 5.6.3 The Owner shall make selections of materials and equipment with reasonable promptness for allowances requiring Owner selection.

§ 5.7 Key Personnel, Contractors and Suppliers

§ 5.7.1 The Design-Builder shall not employ personnel, or contract with Contractors or suppliers to whom the Owner has made reasonable and timely objection. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has made reasonable and timely objection.

§ 5.7.2 If the Design-Builder changes any of the personnel, Contractors or suppliers identified in the Design-Build Amendment, the Design-Builder shall notify the Owner and provide the name and qualifications of the new personnel, Contractor or supplier. The Owner may reply within 14 days to the Design-Builder in writing, stating (1) whether the Owner has reasonable objection to the proposed personnel, Contractor or supplier or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3 Except for those persons or entities already identified or required in the Design-Build Amendment, the Design-Builder, as soon as practicable after commencement of Construction Phase II, shall furnish in writing to the Owner the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner may reply within 14 days to the Design-Builder in writing stating (1) whether the Owner has reasonable objection to any such proposed person or entity or (2) that the Owner requires additional time for review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3.1 If the Owner has reasonable objection to a person or entity proposed by the Design-Builder, the Design-Builder shall propose another to whom the Owner has no reasonable objection. If the rejected person or entity was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute person or entity's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Design-Builder has acted promptly and responsively in submitting names as required.

§ 5.8 Documents and Submittals at the Site

The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Construction Documents, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.2 as a record of the Work as constructed.

§ 5.9 Use of Site

The Design-Builder shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment.

§ 5.10 Cutting and Patching

The Design-Builder shall not cut, patch or otherwise alter fully or partially completed construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The

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Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

§ 5.11 Cleaning Up

§ 5.11.1 The Design-Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Design-Builder shall remove waste materials, rubbish, the Design-Builder's tools, construction equipment, machinery and surplus materials from and about the Project.

§ 5.11.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Design-Builder.

§ 5.12 Access to Work

The Design-Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress wherever located. The Design-Builder shall notify the Owner regarding Project safety criteria and programs, which the Owner, and its contractors and consultants, shall comply with while at the site.

§ 5.13 Construction by Owner or by Separate Contractors

§ 5.13.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 5.13.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces; and to award separate contracts in connection with other portions of the Project, or other construction or operations on the site, under terms and conditions identical or substantially similar to this Contract, including those terms and conditions related to insurance and waiver of subrogation. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article 14.

§ 5.13.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Design-Builder" in the Design-Build Documents in each case shall mean the individual or entity that executes each separate agreement with the Owner.

§ 5.13.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces, and of each separate contractor, with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Design-Builder shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Design-Builder, separate contractors and the Owner until subsequently revised.

§ 5.13.1.4 Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract.

§ 5.14 Mutual Responsibility

§ 5.14.1 The Design-Builder shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Design-Builder's construction and operations with theirs as required by the Design-Build Documents.

§ 5.14.2 If part of the Design-Builder's Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to the Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder's Work. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Design-Builder's Work, except as to defects not then reasonably discoverable.

§ 5.14.3 The Design-Builder shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Design-Builder's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Design-Builder for costs the Design-Builder incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 5.14.4 The Design-Builder shall promptly remedy damage the Design-Builder wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

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§ 5.14.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching the Work as the Design-Builder has with respect to the construction of the Owner or separate contractors in Section 5.10.

§ 5.15 Owner's Right to Clean Up

If a dispute arises among the Design-Builder, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and will allocate the cost among those responsible.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 General

§ 6.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents.

§ 6.1.2 A Change Order shall be based upon agreement between the Owner and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder.

§ 6.1.3 Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order or Change Directive.

§ 6.2 Change Orders

A Change Order is a written instrument signed by the Owner and Design-Builder stating their agreement upon all of the following:

.1 The change in the Work;
.2 The amount of the adjustment, if any, in the Contract Sum; and
.3 The extent of the adjustment, if any, in the Contract Time.

§ 6.3 Change Directives

§ 6.3.1 A Change Directive is a written order signed by the Owner directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum, if any, or the Contract Time, if any. The Owner may by Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 6.3.2 A Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 6.3.3 If the Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
.2 Unit prices stated in the Design-Build Documents or subsequently agreed upon;
.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
.4 As provided in Section 6.3.7.

§ 6.3.4 If unit prices are stated in the Design-Build Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Design-Builder, the applicable unit prices shall be equitably adjusted.

§ 6.3.5 Upon receipt of a Change Directive, the Design-Builder shall promptly proceed with the change in the Work involved and advise the Owner of the Design-Builder's agreement or disagreement with the method, if any, provided in the Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 6.3.6 A Change Directive signed by the Design-Builder indicates the Design-Builder's agreement therewith, including adjustment in Contract Sum or Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 6.3.7 If the Design-Builder does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 6.3.3.3, the Design-Builder shall keep

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and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Design-Build Documents, costs for the purposes of this Section 6.3.7 shall be limited to the following:

.1 Additional costs of professional services;

.2 Costs of labor, including social security, unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;

.3 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;

.4 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Design-Builder or others;

.5 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and

.6 Additional costs of supervision and field office personnel directly attributable to the change.

§ 6.3.8 The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost plus a proportionate decrease for overhead and profit. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 6.3.9 Pending final determination of the total cost of a Change Directive to the Owner, the Design-Builder may request payment for Work completed under the Change Directive in Applications for Payment. The Owner will make an interim determination for purposes of certification for payment for those costs deemed to be reasonably justified. The Owner's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of Design-Builder to disagree and assert a Claim in accordance with Article 14.

§ 6.3.10 When the Owner and Design-Builder agree with a determination concerning the adjustments in the Contract Sum and/or Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Owner and Design-Builder shall execute a Change Order. Change Orders may be issued for all or any part of a Change Directive.

ARTICLE 7 OWNER'S RESPONSIBILITIES

§ 7.1 General

§ 7.1.1 The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization.

§ 7.1.2 The Owner shall render decisions in a timely manner and in accordance with the Design-Builder's schedule agreed to by the Owner. The Owner shall furnish to the Design-Builder, within 15 days after receipt of a written request, information necessary and relevant for the Design-Builder to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 7.2 Information and Services Required of the Owner

§ 7.2.1 The Owner shall furnish information or services required of the Owner by the Design-Build Documents with reasonable promptness.

§ 7.2.2 The Owner shall provide, to the extent under the Owner's control and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations conducted for the Project involving structural or mechanical systems; chemical, air and water pollution; hazardous materials; or environmental and subsurface conditions and information regarding the presence of pollutants at the Project site. Upon receipt of a written request from the Design-Builder, the Owner shall also provide surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site under the Owner's control.

§ 7.2.3 The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project.

§ 7.2.4 The Owner shall cooperate with the Design-Builder in securing building and other permits, licenses and inspections.

§ 7.2.5 The services, information, surveys and reports required to be provided by the Owner under this Agreement, shall be furnished at the Owner's expense, and except as otherwise specifically provided in this Agreement or elsewhere in the Design-Build Documents or to the extent the Owner advises the Design-Builder to the contrary in writing, the Design-Builder shall be entitled to rely upon the accuracy and completeness thereof. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work. Notwithstanding, information, surveys, and reports supplied by Owner relating to underground

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utilities owned by others are not represented by Owner to be accurate and reliable. Design-Builder shall bear responsibility for locating existing utilities in compliance with Florida's Underground Facility Damage Preventions Safety Act, Florida Statutes Ch. 556, *et seq.*

§ 7.2.6 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

§ 7.2.7 Prior to the execution of the Design-Build Amendment, the Design-Builder may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Design-Build Documents and the Design-Builder's Proposal. Thereafter, the Design-Builder may only request such evidence if (1) the Owner fails to make payments to the Design-Builder as the Design-Build Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Design-Builder identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Design-Builder.

§ 7.2.8 Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

§ 7.2.9 The Owner shall purchase and maintain insurance as set forth in Exhibit B.

§ 7.3 Submittals

§ 7.3.1 The Owner shall review and approve or take other appropriate action on Submittals. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities; or for substantiating instructions for installation or performance of equipment or systems; or for determining that the Submittals are in conformance with the Design-Build Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken in accordance with the submittal schedule approved by the Owner or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3. The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 7.3.2 Upon review of the Submittals required by the Design-Build Documents, the Owner shall notify the Design-Builder of any non-conformance with the Design-Build Documents the Owner discovers.

§ 7.4 Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quality or quantity of the Work. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

§ 7.5 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not be responsible for acts or omissions of the Design-Builder, Architect, Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§ 7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with Section 15.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Architect, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 7.7 The Owner shall determine the date or dates of Substantial Completion in accordance with Section 9.8 and the date of final completion in accordance with Section 9.10.

§ 7.8 Owner's Right to Stop Work

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the

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right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity, except to the extent required by Section 5.13.1.3.

§ 7.9 Owner's Right to Carry Out the Work

If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design-Builder the reasonable cost of correcting such deficiencies. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

ARTICLE 8 TIME

§ 8.1 Progress and Completion

§ 8.1.1 Time limits stated in the Design-Build Documents are of the essence of the Contract. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.1.2 The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of insurance, other than property insurance, required by this Contract. The Contract Time shall not be adjusted as a result of the Design-Builder's failure to obtain insurance required under this Contract.

§ 8.1.3 The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.2 Delays and Extensions of Time

§ 8.2.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or of a consultant or separate contractor employed by the Owner; or by changes ordered in the Work by the Owner; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design-Builder's control; or by delay authorized by the Owner pending mediation and binding dispute resolution or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

§ 8.2.2 Claims relating to time shall be made in accordance with applicable provisions of Article 14.

§ 8.2.3 NOTWITHSTANDING ANY PROVISIONS IN THE DESIGN-BUILD DOCUMENTS TO THE CONTRARY; AN EXTENSION OF CONTRACT TIME SHALL BE THE SOLE REMEDY OF DESIGN-BUILDER FOR ANY DELAY OF ANY KIND.

ARTICLE 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION

§ 9.1 Contract Sum

The Contract Sum is stated in the Design-Build Amendment.

§ 9.2 Schedule of Values

The Design-Builder, prior to the first Application for Payment after commencement of Construction Phase II, shall submit to the Owner a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Design-Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

§ 9.3.1.1 As provided in Section 6.3.9, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders.

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§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay the Architect, Consultant, Contractor, material supplier, or other persons or entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

§ 9.3.2 Unless otherwise provided in the Design-Build Documents, payments shall be made for services provided as well as materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Design-Builder with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

§ 9.3.3 The Design-Builder warrants that title to all Work, other than Instruments of Service, covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that, upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 Certificates for Payment

The Owner shall, within seven days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due, and notify the Design-Builder in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of

- **.1** defective Work, including design and construction, not remedied;
- **.2** third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;
- **.3** failure of the Design-Builder to make payments properly to the Architect, Consultants, Contractors or others, for services, labor, materials or equipment;
- **.4** reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- **.5** damage to the Owner or a separate contractor;
- **.6** reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- **.7** repeated failure to carry out the Work in accordance with the Design-Build Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Owner withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered.

§ 9.6 Progress Payments

§ 9.6.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment in accordance with the Florida Prompt Payment Act, Florida Statutes Section 218.70, et seq.

§ 9.6.2 The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than seven days after receipt of payment from the Owner the amount to which the Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the

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portion of the Work performed by the Architect, Consultant, Contractor, or other person or entity. The Design-Builder shall, by appropriate agreement with each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

§ 9.6.3 The Owner will, on request and if practicable, furnish to the Architect, a Consultant, Contractor, or other person or entity providing services or work for the Design-Builder, information regarding percentages of completion or amounts applied for by the Design-Builder and action taken thereon by the Owner on account of portions of the Work done by such Architect, Consultant, Contractor or other person or entity providing services or work for the Design-Builder.

§ 9.6.4 The Owner has the right to request written evidence from the Design-Builder that the Design-Builder has properly paid the Architect, Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, amounts paid by the Owner to the Design-Builder for the Work. If the Design-Builder fails to furnish such evidence within seven days, the Owner shall have the right to contact the Architect, Consultants, and Contractors to ascertain whether they have been properly paid. The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§ 9.6.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Design-Build Documents.

§ 9.6.7 Unless the Design-Builder provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Design-Builder for Work properly performed by the Architect, Consultants, Contractors and other person or entity providing services or work for the Design-Builder, shall be held by the Design-Builder for the Architect and those Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Design-Builder, shall create any fiduciary liability or tort liability on the part of the Design-Builder for breach of trust or shall entitle any person or entity to an award of punitive damages against the Design-Builder for breach of the requirements of this provision.

§ 9.7 Intentionally Deleted.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion is the date certified by the Owner in accordance with this Section 9.8.

§ 9.8.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.

§ 9.8.3 Upon receipt of the Design-Builder's list, the Owner shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, which is not sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Design-Builder shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine Substantial Completion.

§ 9.8.4 Prior to issuance of the Certificate of Substantial Completion under Section 9.8.5, the Owner and Design-Builder shall discuss and then determine the parties' obligations to obtain and maintain property insurance following issuance of the Certificate of Substantial Completion.

§ 9.8.5 When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Warranties required by

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the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.6 The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by the insurer providing property insurance and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.8.2. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner and Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Design-Builder's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection. When the Owner finds the Work acceptable under the Design-Build Documents and the Contract fully performed, the Owner will, subject to Section 9.10.2, promptly issue a final Certificate for Payment and make final payment in compliance with the Florida Prompt Payment Act, Florida Statutes Section 218.70 *et seq.*

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner's property might be responsible or encumbered, (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Design-Build Documents to remain in force after final payment is currently in effect, (3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (4) consent of surety, if any, to final payment, (5) as-constructed record copy of the Construction Documents marked to indicate field changes and selections made during construction, (6) manufacturer's warranties, product data, and maintenance and operations manuals, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner. If an Architect, a Consultant, or a Contractor, or other person or entity providing services or work for the Design-Builder, refuses to furnish a release or waiver required by the Owner, the Design-Builder may furnish a bond satisfactory to the Owner to indemnify the Owner against such liens, claims, security interests, or encumbrances. If such liens, claims, security interests, or encumbrances remains unsatisfied after payments are made, the Design-Builder shall refund to the Owner all money that the Owner may be compelled to pay in discharging such liens, claims, security interests, or encumbrances, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Builder, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Design-Build Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Design-Builder to the Owner prior to issuance of payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

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.1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
.2 failure of the Work to comply with the requirements of the Design-Build Documents; or
.3 terms of special warranties required by the Design-Build Documents.

§ 9.10.5 Acceptance of final payment by the Design-Builder shall constitute a waiver of claims by the Design-Builder except those previously made in writing and identified by the Design-Builder as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Design-Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Design-Builder shall be responsible for precautions for the safety of, and reasonable protection to prevent damage, injury or loss to

.1 employees on the Work and other persons who may be affected thereby;
.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Architect, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and
.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Design-Builder shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property, or their protection from damage, injury or loss.

§ 10.2.3 The Design-Builder shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notify owners and users of adjacent sites and utilities of the safeguards and protections.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods, are necessary for execution of the Work, the Design-Builder shall exercise utmost care, and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3, caused in whole or in part by the Design-Builder, the Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3; except damage or loss attributable to acts or omissions of the Owner, or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable, and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section 3.1.14.

§ 10.2.6 The Design-Builder shall designate a responsible member of the Design-Builder's organization, at the site, whose duty shall be the prevention of accidents. This person shall be the Design-Builder's superintendent unless otherwise designated by the Design-Builder in writing to the Owner.

§ 10.2.7 The Design-Builder shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property. If the Owner or Design-Builder suffers injury or damage to person or property because of an act or omission of the other, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials

§ 10.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or

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substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

§ 10.3.2 Upon receipt of the Design-Builder's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Design-Builder and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Design-Build Documents, the Owner shall furnish in writing to the Design-Builder the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Design-Builder will promptly reply to the Owner in writing stating whether or not the Design-Builder has reasonable objection to the persons or entities proposed by the Owner. If the Design-Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design-Builder has no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Design-Builder. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Design-Builder's reasonable additional costs of shut-down, delay and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Design-Builder, the Architect, Consultants, and Contractors, and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to, or destruction of, tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Design-Builder brings to the site unless such materials or substances are required by the Owner's Criteria. The Owner shall be responsible for materials or substances required by the Owner's Criteria, except to the extent of the Design-Builder's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles, or (2) where the Design-Builder fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Design-Builder, the Design-Builder is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Design-Build Documents, the Owner shall indemnify the Design-Builder for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss.

ARTICLE 11 UNCOVERING AND CORRECTION OF WORK

§ 11.1 Uncovering of Work

The Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the Work has been performed in accordance with the Design-Build Documents. If such Work is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's expense and the Design-Builder shall not be entitled to a change in the Contract Time unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs and the Contract Time will be adjusted as appropriate.

§ 11.2 Correction of Work

§ 11.2.1 Before or After Substantial Completion. The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for any design consultant employed by the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense.

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§ 11.2.2 After Substantial Completion

§ 11.2.2.1 In addition to the Design-Builder's obligations under Section 3.1.12, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of the Work, if the Owner fails to notify the Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 7.9.

§ 11.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 11.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Design-Builder pursuant to this Section 11.2.

§ 11.2.3 The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.

§ 11.2.4 The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents.

§ 11.2.5 Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder has under the Design-Build Documents. Establishment of the one-year period for correction of Work as described in Section 11.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

§ 11.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Design-Build Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 12 COPYRIGHTS AND LICENSES

§ 12.1 Drawings, specifications, and other documents furnished by the Design-Builder, including those in electronic form, are Instruments of Service. The Design-Builder, and the Architect, Consultants, Contractors, and any other person or entity providing services or work for any of them, shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements, or for similar purposes in connection with the Project, is not to be construed as publication in derogation of the reserved rights of the Design-Builder and the Architect, Consultants, and Contractors, and any other person or entity providing services or work for any of them.

§ 12.2 The Design-Builder and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 12.3 Upon execution of the Agreement, the Design-Builder grants to the Owner a limited, irrevocable and non-exclusive license to use the Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under the Design-Build Documents. The license granted under this section permits the Owner to authorize its consultants and separate contractors to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Design-Builder rightfully terminates this Agreement for cause as provided in Section 13.1.4 or 13.2.1 the license granted in this Section 12.3 shall terminate.

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§ 12.3.1 The Design-Builder shall obtain non-exclusive licenses from the Architect, Consultants, and Contractors, that will allow the Design-Builder to satisfy its obligations to the Owner under this Article 12. The Design-Builder's licenses from the Architect and its Consultants and Contractors shall also allow the Owner, in the event this Agreement is terminated for any reason other than the default of the Owner or in the event the Design-Builder's Architect, Consultants, or Contractors terminate their agreements with the Design-Builder for cause, to obtain a limited, irrevocable and non-exclusive license solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner (1) agrees to pay to the Architect, Consultant or Contractor all amounts due, and (2) provide the Architect, Consultant or Contractor with the Owner's written agreement to indemnify and hold harmless the Architect, Consultant or Contractor from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service.

§ 12.3.2 In the event the Owner alters the Instruments of Service without the author's written authorization or uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all claims and causes of action arising from or related to such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service under this Section 12.3.2. The terms of this Section 12.3.2 shall not apply if the Owner rightfully terminates this Agreement for cause under Sections 13.1.4 or 13.2.2.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination or Suspension Prior to Final Completion of Design Phase I

§ 13.1.1 If the Owner fails to make payments to the Design-Builder for Work prior to final completion of Design Phase I in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Design-Builder's option, cause for suspension of performance of services under this Agreement. If the Design-Builder elects to suspend the Work, the Design-Builder shall give seven days' written notice to the Owner before suspending the Work. In the event of a suspension of the Work, the Design-Builder shall have no liability to the Owner for delay or damage caused by the suspension of the Work. Before resuming the Work, the Design-Builder shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.2 If the Owner suspends the Project, the Design-Builder shall be compensated for the Work performed prior to notice of such suspension. If the Owner suspends the Project for reasons other than the fault of the Design-Builder, then when the Project is resumed, the Design-Builder shall be compensated for expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Design-Builder, the Design-Builder may terminate this Agreement by giving not less than seven days' written notice.

§ 13.1.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 13.1.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Design-Builder for the Owner's convenience and without cause.

§ 13.1.6 In the event of termination not the fault of the Design-Builder, the Design-Builder shall be compensated for Work performed prior to termination, together with Reimbursable Expenses then due and any other expenses directly attributable to termination for which the Design-Builder is not otherwise compensated. In no event shall the Design-Builder's compensation under this Section 13.1.6 be greater than the compensation set forth in Section 2.1.

§ 13.2 Termination or Suspension after Commencement of Construction Phase II

§ 13.2.1 Termination by the Design-Builder

§ 13.2.1.1 The Design-Builder may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Design-Builder, the Architect, a Consultant, or a Contractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;

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.3 Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the reason for withholding certification as provided in Section 9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Design-Build Documents; or

.4 The Owner has failed to furnish to the Design-Builder promptly, upon the Design-Builder's request, reasonable evidence as required by Section 7.2.7.

§ 13.2.1.2 The Design-Builder may terminate the Contract if, through no act or fault of the Design-Builder, the Architect, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 13.2.1.3 If one of the reasons described in Section 13.2.1.1 or 13.2.1.2 exists, the Design-Builder may, upon seven days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 13.2.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Design-Builder or any other persons or entities performing portions of the Work under contract with the Design-Builder because the Owner has repeatedly failed to fulfill the Owner's obligations under the Design-Build Documents with respect to matters important to the progress of the Work, the Design-Builder may, upon seven additional days' written notice to the Owner, terminate the Contract and recover from the Owner as provided in Section 13.2.1.3.

§ 13.2.2 Termination by the Owner For Cause

§ 13.2.2.1 The Owner may terminate the Contract if the Design-Builder

.1 fails to submit the Proposal by the date required by this Agreement, or if no date is indicated, within a reasonable time consistent with the date of Substantial Completion;

.2 repeatedly refuses or fails to supply an Architect, or enough properly skilled Consultants, Contractors, or workers or proper materials;

.3 fails to make payment to the Architect, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;

.4 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.5 is otherwise guilty of substantial breach of a provision of the Design-Build Documents.

§ 13.2.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder and the Design-Builder's surety, if any, seven days' written notice, terminate employment of the Design-Builder and may, subject to any prior rights of the surety:

.1 Exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;

.2 Accept assignment of the Architect, Consultant and Contractor agreements pursuant to Section 3.1.15; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 13.2.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 13.2.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

§ 13.2.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The obligation for such payments shall survive termination of the Contract.

§ 13.2.3 Suspension by the Owner for Convenience

§ 13.2.3.1 The Owner may, without cause, order the Design-Builder in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 13.2.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 13.2.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

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.1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Design-Builder is responsible; or

.2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 13.2.4 Termination by the Owner for Convenience

§ 13.2.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 13.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and,

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Project agreements, including agreements with the Architect, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.

§ 13.2.4.3 In any such termination for the convenience of Owner, Design-Builder shall be paid for Work completed in accordance with the Design-Build Documents prior to receipt of the notice of termination, and for reasonable termination settlement costs relating to commitments which had become firm prior to the termination; however, payment to Design-Builder will exclude any and all anticipated supplemental costs, administrative expenses overhead and profit on uncompleted Work and any type of wrongful termination damages. Design-Builder shall justify its Contract Claims as requested by Owner with thorough, accurate records and data.

§13.2.4.4 If, after notice of Termination for Cause of Design-Builder, it is determined that Design-Builder was not in default, the termination shall be deemed to have been for the convenience of Owner. In such event Design-Builder may recover from Owner payment in accordance with subsection 13.2.4.3.

ARTICLE 14 CLAIMS AND DISPUTE RESOLUTION

§ 14.1 Claims

§ 14.1.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Design-Builder arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 14.1.2 Time Limits on Claims. The Owner and Design-Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other, arising out of or related to the Contract in accordance with the requirements of the binding dispute resolution method selected in Section 1.3, within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Design-Builder waive all claims and causes of action not commenced in accordance with this Section 14.1.2.

§ 14.1.3 Notice of Claims

§ 14.1.3.1 Prior To Final Payment. Prior to Final Payment, Claims by either the Owner or Design-Builder must be initiated by written notice to the other party within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 14.1.3.2 Claims Arising After Final Payment. After Final Payment, Claims by either the Owner or Design-Builder that have not otherwise been waived pursuant to Sections 9.10.4 or 9.10.5, must be initiated by prompt written notice to the other party. The notice requirement in Section 14.1.3.1 and the Initial Decision requirement as a condition precedent to mediation in Section 14.2.1 shall not apply.

§ 14.1.4 Continuing Contract Performance. Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 13, the Design-Builder shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Design-Build Documents.

§ 14.1.5 Claims for Additional Cost. If the Design-Builder intends to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the portion of the Work that relates to the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

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§ 14.1.6 Claims for Additional Time and No Damage for Delay

§ 14.1.6.1 If the Design-Builder intends to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Design-Builder's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 14.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time in the east central Florida area, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§14.1.6.3 Notwithstanding any provisions in the Design-Build Documents to the contrary, an extension of Contract Time shall be the sole remedy of Design-Builder for any delay of any kind. The Owner's exercise of any of its rights under this Section regardless of the extent or number of the changes, or the Owner's exercise of its remedies of stopping the Work or requiring correction or re-execution of any defective Work shall not under any circumstances be construed as active or intentional interference with the Design-Builder's performance of the Work.

§14.1.6.4 The Design-Builder expressly waives recovery (1) of acceleration costs incurred as an alternative to an extension in Contract Time on account of delays not meeting the requirements for extensions in Contract Time or an adjustment in Contract Price; (2) of escalation costs for any part of the Work; and, (3) of any Contract Claim for an addition to the Contract Price when the Design-Builder fails to comply with the time requirements for notice or submittal of supporting data under these Design-Build Documents.

§ 14.1.7 Claims for Consequential Damages

The Design-Builder and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Design-Builder for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 13. Nothing contained in this Section 14.1.7 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Design-Build Documents.

§ 14.2 Initial Decision

§ 14.2.1 An initial decision shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder initiated prior to the date final payment is due, excluding those arising under Sections 10.3 and 10.4 of the Agreement and Sections B.3.2.9 and B.3.2.10 of Exhibit B to this Agreement, unless 30 days have passed after the Claim has been initiated with no decision having been rendered. Unless otherwise mutually agreed in writing, the Owner shall render the initial decision on Claims.

§ 14.2.2 Procedure

§ 14.2.2.1 Claims Initiated by the Owner. If the Owner initiates a Claim, the Design-Builder shall provide a written response to Owner within ten days after receipt of the notice required under Section 14.1.3.1. Thereafter, the Owner shall render an initial decision within ten days of receiving the Design-Builder's response: (1) withdrawing the Claim in whole or in part, (2) approving the Claim in whole or in part, or (3) suggesting a compromise.

§ 14.2.2.2 Claims Initiated by the Design-Builder. If the Design-Builder initiates a Claim, the Owner will take one or more of the following actions within ten days after receipt of the notice required under Section 14.1.3.1: (1) request additional supporting data, (2) render an initial decision rejecting the Claim in whole or in part, (3) render an initial decision approving the Claim, (4) suggest a compromise or (5) indicate that it is unable to render an initial decision because the Owner lacks sufficient information to evaluate the merits of the Claim.

§ 14.2.3 In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist the Owner in rendering a decision. The retention of such persons shall be at the Owner's expense.

§ 14.2.4 If the Owner requests the Design-Builder to provide a response to a Claim or to furnish additional supporting data, the Design-Builder shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Owner when the response or supporting data will be furnished or (3) advise the Owner that no supporting

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data will be furnished. Upon receipt of the response or supporting data, if any, the Owner will either reject or approve the Claim in whole or in part.

§ 14.2.5 The Owner's initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) identify any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, the parties may pursue available remedies at law.

§ 14.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 14.2.6.1.

§ 14.2.6.1 Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate.

§ 14.2.7 In the event of a Claim against the Design-Builder, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Design-Builder's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 14.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 14.3 Mediation

§ 14.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 14.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 14.3.2 The parties shall endeavor to resolve their Claims by mediation before a mutually agreeable mediator. . A request for mediation shall be made in writing, delivered to the other party to the Contract.

§ 14.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction.

§ 14.4 Intentionally Deleted.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Governing Law

The Contract shall be governed by the law of the State of Florida and venue for any legal action shall be in Brevard County for state actions and the United States District Court for the Middle District of Florida, Orlando Division for federal actions.

§ 15.2 Successors and Assigns

§ 15.2.1 The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Except as provided in Section 15.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 15.2.2 The Owner may, without consent of the Design-Builder, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Design-Build Documents. The Design-Builder shall execute all consents reasonably required to facilitate such assignment.

§ 15.2.3 If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute certificates, other than those required by Section 3.1.10, the Owner shall submit the proposed language of such certificates for review at least 14 days prior to the requested dates of execution. If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute consents reasonably required to facilitate assignment to a lender, the Design-Builder, Architect, Consultants, or Contractors shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to them for review at least 14 days prior to execution. The Design-Builder, Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

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§ 15.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 15.4 Rights and Remedies

§ 15.4.1 Duties and obligations imposed by the Design-Build Documents, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 15.4.2 No action or failure to act by the Owner or Design-Builder shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

§ 15.5 Tests and Inspections

§ 15.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Design-Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Design-Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design-Builder.

§ 15.5.2 If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense.

§ 15.5.3 If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure shall be at the Design-Builder's expense.

§ 15.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder and promptly delivered to the Owner.

§ 15.5.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

§ 15.5.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 15.6 Public Entity Requirements

§15.6.1 It is hereby specifically agreed that any record, document, computerized information and program, audio or video tape, photograph, or other writing of the Design-Builder and its independent contractors and associates related, directly or indirectly, to the Design-Build Documents, may be deemed to be a Public Record whether in the possession or control of the Owner or the Design-Builder. Said record, document, computerized information and program, audio or video tape, photograph, or other writing of the Design-Builder 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 Design-Builder shall promptly supply copies of said public records to the Owner. All books, cards, registers, receipts, documents, and other papers in connection with the Design-Build Documents shall at any and all reasonable times during the normal working hours of the Design-Builder be open and freely exhibited to the Owner for the purpose of examination and/or audit.

The Design-Builder acknowledges that the Owner is a Florida municipal corporation and subject to the Florida Public Records Law. Design-Builder agrees that to the extent any document produced by Design-Builder under the Design-Build Documents constitutes a Public Record; Design-Builder shall comply with the Florida Public Records Law.

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§15.6.2 Notwithstanding any other provision set forth in the Design-Build Documents, nothing contained in th Design-Build Documents shall be construed as a waiver of the Owner's right to sovereign immunity under Section 768.28, or other limitations imposed on the Owner's potential liability under state or federal law. As such, the Owner shall not be liable, under the Design-Build Documents for punitive damages or interest for the period before judgment. Further, the Owner 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).

§ 15.7 Capitalization

Terms capitalized in the Contract include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 15.8 Interpretation

§ 15.8.1 In the interest of brevity the Design-Build Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 15.8.2 Unless otherwise stated in the Design-Build Documents, words which have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.

ARTICLE 16 SCOPE OF THE AGREEMENT

§ 16.1 This Agreement is comprised of the following documents listed below
:

- **.1** Master Agreement
- **.2** AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder
- **.3** AIA Document A141™–2014, Exhibit A, Design-Build Amendment
- **.4** AIA Document A141™–2014, Exhibit B, Insurance and Bonds
- **.5** The RFP Response
- **.6** other documents listed in this Agreement including the Construction Documents once prepared
- **.7** the RFQ Response
- **.8** City of Cocoa Request for Proposal #Q-16-07-COC dated May 13, 2016
- **.9** City of Cocoa Request for Qualifications RFQ #Q-19-07-COC dated October 8, 2018 and Request for Proposal #Q-19-07-COC dated December 18, 2018

This Agreement entered into as of the day and year first written above.

The Design-Build Documents consist of the Master Agreement, this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the "Agreement"); other documents listed in this Agreement; Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive; the RFP Response and the RFQ Response; City of Cocoa Request for Qualifications RFQ #Q-19-07-COC dated October 8, 2018 and Request for Proposal #Q-19-07-COC dated December 18, 2018
.

OWNER *(Signature)*	**DESIGN-BUILDER** *(Signature)*
« »« »	W&J Construction Corporation Erik Costin, Vice President
(Printed name and title)	*(Printed name and title)*

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AIA® Document A141™ – 2014
Exhibit A

Design-Build Amendment

This Amendment is incorporated into the accompanying AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder dated the twelfth day of June in the year two thousand nineteen (the "Agreement")
(In words, indicate day, month and year.)

for the following PROJECT:
(Name and location or address)

DR. JOE LEE SMITH COMMUNITY CENTER
PROJECT No. CP1504
415 Stone St.
Cocoa, FL 32922

THE OWNER:

City of Cocoa, Municipal Agency
65 Stone Street
Cocoa, Florida 32922

THE DESIGN-BUILDER:

W & J Construction Corporation
1038 Harvin Way, Suite 120
Rockledge, FL 32955

The Owner and Design-Builder hereby amend the Agreement as follows.

TABLE OF ARTICLES

A.1 CONTRACT SUM

A.2 CONTRACT TIME AND LIQUIDATED DAMAGES

A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS

A.5 MISCELLANEOUS

ARTICLE A.1 CONTRACT SUM

§ A.1.1 The Owner shall pay the Design-Builder the Contract Sum of **$4,550,013.00** total, subject to authorized adjustments as provided in the Design-Build Documents, in current funds for the Design-Builder's performance of the Contract after the execution of this Amendment. The Contract Sum shall be one of the following:

[**X**] Design Phase I Stipulated Sum and Construction Phase II Stipulated Sum, in accordance with Section A.1.2 below

ADDITIONS AND DELETIONS: The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

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[n/a] Cost of the Work plus the Design-Builder's Fee, in accordance with Section A.1.3 below

[n/a] Cost of the Work plus the Design-Builder's Fee with a Guaranteed Maximum Price, in accordance with Section A.1.4 below

§ A.1.2 Design Phase I Stipulated Sum and Construction Phase II Stipulated Sum

§ A.1.2.1 The Contract Sum shall be $4,550,013.00total, including all Design Phase I and Construction Phase II costs, subject to authorized adjustments as provided in the Design-Build Documents. The Contract Sum is made up of the following components:

a) Design Phase I Costs Stipulated Sum: $170,144.00
b) Construction Phase II Stipulated Sum: $4,379,869.00

Unless otherwise agreed to pursuant to the terms of the Contract Documents, all costs that would cause the Contract Sum to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner.

§ A.1.2.2 The Stipulated Sum is based upon the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner: None

§ A.1.2.3 Unit prices, if any:
(Identify item, state the unit price, and state any applicable quantity limitations.)

Item	Units and Limitations	Price per Unit ($0.00)
None		

§ A.1.2.4 Assumptions, if any, on which the Contract Sum is based: Per RFP Response.

§ A.1.3 Intentionally Deleted.

§ A.1.4 Intentionally Deleted.

§ A.1.5 Payments
§ A.1.5.1 Progress Payments
§ A.1.5.1.1 Based upon Applications for Payment submitted to the Owner by the Design-Builder, the Owner shall make progress payments on account of the Contract Sum to the Design-Builder as provided below and elsewhere in the Design-Build Documents.

§ A.1.5.1.2 Unless otherwise agreed to by Owner, the period covered by each Application for Payment shall be one calendar month ending on the last day of the month. Each application for payment shall include the Cost of Work approved for the pay period plus Design-Builder's fee percentage added to that amount.

§ A.1.5.1.3 Payment applications are due after the 20th but not later than the 25th of the month. Approved invoices will be paid in compliance with the Florida Prompt Payment Act, Florida Statutes Section 218.70 *et seq*.

§ A.1.5.1.4 Intentionally Deleted.

§ A.1.5.1.5 With each Application for Payment, the Design-Builder shall submit the most recent schedule of values in accordance with the Design-Build Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. Compensation for design services, if any, shall be shown separately. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule of values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ A.1.5.1.6 In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section A.1.5.1.5, or other supporting data; to have made exhaustive or continuous on-site inspections; or to have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

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§ A.1.5.1.7 Except with the Owner's prior approval, the Design-Builder shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ A.1.5.2 Progress Payments—Stipulated Sum

§ A.1.5.2.1 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ A.1.5.2.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Ten percent (10%) on the Work. Pending final determination of cost to the Owner of Changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement;

.2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of Ten percent (10 %);

.3 Subtract the aggregate of previous payments made by the Owner; and

.4 Subtract amounts, if any, the Owner has withheld or nullified, as provided in Section 9.5 of the Agreement.

§ A.1.5.2.3 Reduction or limitation of retainage, if any, shall be as follows: Subject to Section 3.1.8.3 of the Agreement, the 10% retainage will be reduced during Construction Phase II in compliance with the Florida Prompt Payment Act, Florida Statutes Section 718.70 et seq.

§ A.1.5.3 Intentionally Deleted.

§ A.1.5.4 Intentionally Deleted.

§ A.1.5.5 Final Payment

§ A.1.5.5.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Design-Builder after the Design-Builder has fully performed the Contract and the requirements of Section 9.10 of the Agreement have been satisfied, except for the Design-Builder's responsibility to correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, which extend beyond final payment. Final payment shall be made in compliance with the Florida Prompt Payment Act, Florida Statutes Section 718.70 *et seq*.

ARTICLE A.2 CONTRACT TIME AND LIQUIDATED DAMAGES

§ A.2.1 Contract Time, as defined in the Agreement, is the period of time, including authorized adjustments, for Substantial and Final Completion of the Work as set forth in §A.2.2, below.

§ A.2.2 The Design-Builder shall complete the Work as follows:

Portion of Work	Completion Date
Final Completion of Design Phase I	Complete at signing of this agreement.
Substantial Completion of Construction Phase II	335 days from the letter of issuance of a building permit(s) sufficient to allow physical construction to begin.
Final Completion of Construction Phase II	30 days following Substantial Completion of Construction Phase II

, subject to adjustments of the Contract Time as provided in the Design-Build Documents.

§A.2.3 As liquidated damages, Design-Builder shall pay owner **$0.00 for each day** that expires after the time specified in Section A.2.2, above, for Final Completion of Design Phase I.

§A.2.4 As liquidated damages, Design-Builder shall pay owner **$500.00 for each day** that expires after the time specified in Section A.2.2, above, for Substantial Completion of Construction Phase II until the work is substantially complete.

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§A.2.5 As liquidated damages, Design-Builder shall pay owner **$500.00 for each day** that expires after the time specified in Section A.2.2, above, for Final Completion of Construction Phase II until the work is finally complete.

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Contract Sum and Contract Time set forth in this Amendment are based on the following:

§ A.3.1.1 The Supplementary and other Conditions of the Contract to be prepared by Design-Builder during Design Phase I

§ A.3.1.2 The Specifications to be prepared by Design-Builder during Design Phase I.

§ A.3.1.3 The Drawings to be prepared by Design-Builder during Design Phase I.

§ A.3.1.4 The RFP Response.

§ A.3.1.5 Allowances and Contingencies:
(Identify any agreed upon allowances and contingencies, including a statement of their basis.)

.1 Allowances

a.	Digital Sign Board Allowance:	$30,000.00
b.	Scoreboards Allowance:	$9,000.00
c.	Reinstall One Ball Field Pole Light:	$5,000.00
d.	Phone and Data – By Owner	$0.00
e.	Security / CCTV – By Owner	$0.00
f.	Access Control – By Owner	$0.00
g.	PA System Allowance:	$10,000.00
h.	Landscape Plan Check Allowance:	$5,000.00
i.	Resurface Pool & Deck Allowance:	$220,000.00
j.	Playground Equipment Allowance:	$100,000.00
k.	Relocate Prefab Restroom Allowance:	$25,000.00

.2 Contingencies

a.	Construction Contingency:	$112,222.00

§ A.3.1.6 Design-Builder's assumptions and clarifications:

a. Moisture Mitigation of SOG is Excluded

§ A.3.1.7 Deviations from the Owner's Criteria as adjusted by a Modification:

None

§ A.3.1.8 To the extent the Design-Builder shall be required to submit any additional Submittals to the Owner for review, indicate any such submissions below:

None except as specified in the Agreement and this Amendment

ARTICLE A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS

§ A.4.1 The Design-Builder's key personnel are identified below:
(Identify name, title and contact information.)

.1 Superintendent

Jim Cross
321.987.8968; jimcross@wjconstruction.com

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.2 Project Manager

Chad Laston
321.522.9011; chad@wjconstruction.com

.3 Others

§ A.4.2 The Design-Builder shall retain the following Consultants, Contractors and suppliers, identified below:

Tsark Architecture
1990 W. New Haven Ave #306
Melbourne, FL 32904

Construction Engineering Group
2651 W. Eau Gallie Blvd.
Melbourne, FL 32935

ARTICLE A.5 Miscellaneous

§ A.5.1 Accounting Records

The Design-Builder shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under the Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Design-Builder's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Contractor's proposals, purchase orders, vouchers, memoranda and other data relating to the Contract. The Design-Builder shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law. Section 15.6 of the Agreement shall govern Design-Builder's responsibilities in regards to Florida's Public Records Laws.

§ A.5.2 Relationship of the Parties

The Design-Builder accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to exercise the Design-Builder's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests.

This Amendment to the Agreement entered into as of the day and year first written above.

OWNER *(Signature)*	**DESIGN-BUILDER** *(Signature)*
« »« »	W&J Construction Corporation Erik Costin, Vice President
(Printed name and title)	*(Printed name and title)*

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Exhibit B

Insurance and Bonds

for the following PROJECT:
(Name and location or address)

DR. JOE LEE SMITH COMMUNITY CENTER
PROJECT No. CP1504
415 Stone St.
Cocoa, FL 32922

THE OWNER:
(Name, legal status and address)

City of Cocoa, Municipal Agency
65 Stone Street
Cocoa, Florida 32922

THE DESIGN-BUILDER:
(Name, legal status and address)

W & J Construction Corporation
1038 Harvin Way, Suite 120
Rockledge, FL 32955

THE AGREEMENT
This Insurance Exhibit is part of the accompanying agreement for the Project, between the Owner and the Design-Builder (hereinafter, the Agreement), dated the twelfth day of June in the year two thousand nineteen.
(In words, indicate day, month and year.)

TABLE OF ARTICLES

B.1 GENERAL

B.2 DESIGN BUILDER'S INSURANCE AND BONDS

B.3 OWNER'S INSURANCE

B.4 SPECIAL TERMS AND CONDITIONS

ARTICLE B.1 GENERAL
The Owner and Design-Builder shall purchase and maintain insurance and provide bonds as set forth in this Exhibit B. Where a provision in this Exhibit conflicts with a provision in the Agreement into which this Exhibit is incorporated, the provision in this Exhibit will prevail.

ARTICLE B.2 DESIGN BUILDER'S INSURANCE AND BONDS
§ B.2.1 The Design-Builder shall purchase and maintain the following types and limits of insurance from a company or companies lawfully authorized to do business in the jurisdiction where the Project is located. The Design-Builder shall maintain the required insurance until the expiration of

ADDITIONS AND DELETIONS: The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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User Notes: (960722545)

the period for correction of Work as set forth in Section 11.2.2.1 of the Agreement, unless a different duration is stated below:
(If the Design-Builder is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

« »

§ B.2.1.1 Commercial General Liability with policy limits of not less than One Million Dollars ($ 1,000,000.00) for each occurrence and Two Million Dollars ($ 2,000,000.00) in the aggregate with no more than Five Thousand Dollars ($5,000) deductible per occurrence providing coverage for claims including:

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
.2 personal injury;
.3 damages because of injury to or destruction of tangible property;
.4 bodily injury or property damage arising out of completed operations; and
.5 contractual liability applicable to the Design-Builder's obligations under Section 3.1.14 of the Agreement.

§ B.2.1.2 Automobile Liability covering vehicles owned by the Design-Builder and non-owned vehicles used by the Design-Builder with policy limits of not less than One Million Dollars ($ 1,000,000.00) combined single limit for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles specified in this Section B.2.1.2, along with any other statutorily required automobile coverage.

§ B.2.1.3 The Design-Builder may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections B.2.1.1 and B.2.1.2.

§ B.2.1.4 Workers' Compensation at statutory limits required by Florida law.

§ B.2.1.5 Employers' Liability with minimum policy limits as provided below:

One Million Dollars ($1,000,000.00) each accident, One Million Dollars ($1,000,000.00) disease each employee, One Million Dollars ($1,000,000.00) disease – policy limit.

§ B.2.1.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than One Million Dollars ($1,000,000.00) per claim and One Million Dollars ($1,000,000.00) in the aggregate.

§ B.2.1.7 Pollution Liability covering performance of the Work, with policy limits of not less than One Million Dollars ($1,000,000.00) per occurrence.

§ B.2.1.7.1 The Design-Builder may obtain a combined Professional Liability and Pollution Liability policy to satisfy the requirements set forth in Sections B.2.1.6 and B.2.1.7, with combined policy limits that are not less than One Million Dollars ($1,000,000.00) per claim and Two Million Dollars ($2,000,000.00) in the aggregate.

§ B.2.1.8 The Design-Builder shall provide written notification to the Owner of the cancellation or expiration of any insurance required by this Article B.2. The Design-Builder shall provide such written notice within five (5) business days of the date the Design-Builder is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.

§ B.2.1.9 Additional Insured Obligations. The Owner and its consultants and contractors shall be additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability and Pollution Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations. The policy limits applicable to the additional insureds shall be the same amount applicable to the named insured or, if the policy provides otherwise, policy limits not less than the amounts required under this Agreement.

§ B.2.1.10 Certificates of Insurance. The Design-Builder shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.2: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by

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Section 9.10.2 of the Agreement and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section B.2.1. The certificates will show the Owner and its consultants and contractors as additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability, and Pollution Liability. Information concerning reduction of coverage on account of revised limits, claims paid under the General Aggregate or both, shall be furnished by the Design-Builder with reasonable promptness.

§ B.2.2 Performance Bond and Payment Bond

The Design-Builder shall provide and maintain surety bonds as follows:

Performance Bond in the form attached hereto.

Payment Bond in the form attached hereto.

§ B.2.2.1 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Agreement, the Design-Builder shall promptly furnish a copy of the bonds or shall permit a copy to be made.

§ B.2.2.2 The Design-Builder shall provide the Owner with a certified copy of the recorded bonds prior to commencing the work or recommencing the work after a default.

DRAFT

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City of Cocoa Budget Adjustment Form FY 2019 - 19-098

SELECT ADJUSTMENT TYPE: BUDGET TRANSFER | REQUESTING DEPARTMENT #: FN | DATE PREPARED: 06/06/19

'REVENUE' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
($ 1,214,365)	301-3580-519.62-00	CP1504	Buildings	$ 3,525,000	$ 3,497,840	$ 2,283,475	$ 2,083,206
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
($ 1,214,365)	TOTAL						

'EXPENSE' ACCOUNT(S)

ADJUSTMENT AMOUNT	ACCOUNT NUMBER	PROJECT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	AMENDED BUDGET	ADJUSTED BUDGET	UNENCUMBERED BALANCE
$ 613,645	301-3580-519.63-00	CP1504	Infrastructure	$ 0	$ 0	$ 613,645	$ 613,645
$ 600,720	301-3580-519.64-00	CP1504	Machinery & Equipment	$ 0	$ 0	$ 600,720	$ 600,720
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 0				$ 0	$ 0	$ 0	$ 0
$ 1,214,365	TOTAL						

REASON/JUSTIFICATION FOR ADJUSTMENT:

Authorize the Contractual Guaranteed Maximum Price (GMP) from W&J Construction in the amount of $4,550,013 for the Multi-Year, Multi-Phase Design Build (Fiscal Year 2019 and Fiscal Year 2020) of the Dr. Joe Lee Smith Community Center (RFQ 19-07-COC). Agenda 19-217

CITY COUNCIL APPROVAL REQUIRED? *YES* (●) *NO* ( ) *DATE APPROVED:* _____ *RESOLUTION #:* 2019-051

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

6/6/19	Lea Taylor Digitally signed by Lea Taylor Date: 2019.06.06 17:52:32 -04'00'	6/6/19	Lea Taylor Digitally signed by Lea Taylor Date: 2019.06.06 17:52:41 -04'00'		
Date	Requestor's Signature	Date	Finance Approval Signature	Date	Finance Director's Signature
6/7/19	Gary Palmer Digitally signed by Gary Palmer DN: cn=Gary Palmer, o=Public Works, ou=City Manager, email=gpalmer@cocoafl.org Date: 2019.06.07 08:40:35 -04'00'	6/7/19	Lora Howell Digitally signed by Lora Howell Date: 2019.06.07 08:48:52 -04'00'		
Date	Department Director's Signature	Date	Deputy Fin. Director's Signature	Date	City Manager's Signature

FINANCE USE ONLY:

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

RESOLUTION NO. 2019-004

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA; AUTHORIZING THE CITY MANAGER TO NEGOTIATE A GUARANTEED MAXIMUM PRICE (GMP) AND ENTER INTO A DESIGN-BUILD CONSTRUCTION CONTRACT WITH W & J CONSTRUCTION CORPORATION TO CONSTRUCT THE NEW JOE LEE SMITH COMMUNITY CENTER NOT TO EXCEED $3,295,839.00; AUTHORIZING A MINIMUM CONTINGENCY OF $150,000.00 ABOVE THE GMP PLUS AN ADDITIONAL CONTINGENCY AMOUNT IF THE NEGOTIATED GUARANTEED MAXIMUM PRICE IS BELOW $3,295,839.00; AUTHORIZE THE CITY MANAGER TO APPROVE AND EXECUTE PURCHASE ORDERS AND CHANGE ORDERS RELATED TO THE PRIMARY DESIGN-BUILD CONSTRUCTION CONTRACT AND ANY ADDITIONAL SERVICE CONTRACTS RELATED TO THE COMPLETION OF THE PROJECT NOT TO EXCEED THE TOTAL AMOUNT BUDGETED AND AUTHORIZED BY THIS RESOLUTION OF $3,445,839.00; PROVIDING NOTHING CONTAINED HEREIN SHALL BE DEEMED TO PROHIBIT THE CITY MANAGER FROM EXPENDING FUNDS FOR OTHER CITY CONSULTANTS RELATED TO THE PROJECT WITHIN THE CITY MANAGER'S REGULAR SPENDING AUTHORITY UNDER SECTION 2-4 OF THE CITY CODE; 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 January 9, 2019, the City Council authorized the City Manager to negotiate a guaranteed maximum price with W & J Construction Corporation to construct the new Joe Lee Smith Community Center, not to exceed $3,295,839.00, plus a contingency of $150,000.00 subject to certain terms and conditions and budget adjustments approved by the City Council; and

WHEREAS, in conjunction with this authorization granted to the City Manager to negotiate and enter into the primary construction contract with W & J Construction Corporation, 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 negotiate and enter into the primary construction contract and 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 negotiate a guaranteed maximum price and primary construction contract with W & J Construction Corporation to construct the new Joe Lee Smith Community Center, not to exceed $3,295,839.00, plus a contingency of $150,000.00. If the final negotiated Guaranteed Maximum Price is less than $3,295,839, the contingency amount shall be increased by the difference between the $3,295,839 and the final negotiated GMP. The City Manager is also authorized to approve any purchase and change orders related to the primary construction contract and any additional service contracts related to the construction project, provided the total amount of approved purchase and change orders and any additional service contracts do not cause the construction budget to exceed the total $3,445,839.00 budgeted by the City Council for the project inclusive of the contingency amount set aside for the project. This grant of spending authority shall be interpreted and construed in accordance with the provisions of Section 2-4 of the City Code. Nothing contained herein shall be deemed to prohibit the City Manager from expending funds for the project within the City Manager's regular spending authority under section 2-4 of the City Code including services required by other City consultants such as Architects RZK Inc.

(B) Pursuant to section 2-4 of the City Code, the City Manager shall also provide notice of guaranteed maximum price and execution of the primary Design-Build construction contract with W & J Construction Corporation and 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 January 9, 2019.

Jake Williams, Jr.

ATTEST:

Carie Shealy, MMC, City Clerk

RESOLUTION NO. 2019-052

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA; MODIFYING RESOLUTION NO: 2019-004 TO AMEND THE GUARANTEED MAXIMUM PRICE AND PROJECT CONTINGENCY AMOUNT RELATED TO THE COMPLETION OF THE PROJECT REGARDING THE CONSTRUCTION OF THE DR. JOE LEE SMITH COMMUNITY CENTER (RFQ 19-17-COC), PROJECT #CP1504; PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the City Council previously adopted Resolution No. 2019-004 establishing a guaranteed maximum price with W & J Construction Corporation to construct the new Joe Smith Community Center, plus a contingency subject to certain terms and conditions and budget adjustment approved by the City Council; and

WHEREAS, on June 12, 2019, the City Council authorized the City Manager to proceed with the construction of the Dr. Joe Lee Smith Community Center (RFQ 19-17-COC), Project #CP1504 by accepting the contractual guaranteed maximum price of $4,550,013, plus an increased contingency of, subject to certain terms and conditions and budget adjustments approved by the City Council; and

WHEREAS, the City Council deems it to be in the best interest of the City of Cocoa to adopt this Resolution related to the City Manager's general spending authority pursuant to Section 2-4 of the City Code.

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

SECTION 1.

(A) Resolution No. 2019-004 is hereby amended as follows:

(1) The contractual guaranteed maximum price (GMP) shall be not to exceed $4,550,013.00.

(2) The project contingency shall be $289,558.00.

(3) The total construction budget shall be $4,839,571.00 inclusive of the GMP and project contingency.

(4) The City Manager is hereby authorized to finalize and execute the design-build contract with W & J Construction consistent with the terms and conditions of this Resolution.

SECTION 2. All other terms and conditions of Resolution No. 2019-004 not modified by or inconsistent with this Resolution shall remain in full force and effect.

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 June 12, 2019.

_____
Jake Williams, Jr., Mayor

ATTEST:

_____
Carie Shealy, MMC, City Clerk

Legislation Details (With Text)

File #:	19-258	**Version:**	1	**Name:**	
Type:	Informational Item			**Status:**	Agenda Ready
File created:	5/24/2019			**In control:**	City Council
On agenda:	6/12/2019			**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 April 2019 Funds 001-426.pdf				

Date	Ver.	Action By	Action	Result

CITY COUNCIL AGENDA ITEM

Memo Date: May 24, 2019
Agenda Date: June 12, 2019
Prepared By: Lora Howell, Deputy Finance Director
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 April 2019 provide information for the four major funds: General Fund, Water/Sewer Fund, Water/Sewer Capital Projects 2018B Fund and the Storm Water Fund. This April 2019 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 four major funds: General Fund, Water & Sewer and Water Sewer Capital Projects 2018B, 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 four major funds: General Fund, Water & Sewer, Water & Sewer Capital Projects 2018B 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 2019 Budget by Classification Report - Summary Listing

4/30/2019

Target for April 2019 is 58%

FUND 001 - GENERAL FUND

	Amended Budget	YTD Encumbrances	YTD Actual Transactions	Budget - YTD	% Used/Rec'd
REVENUE					
TAXES	$ 8,200,129		$ 6,536,730	$ 1,663,399	80%
OTHER PERMITS AND FEES	$ 3,342,581		$ 2,512,495	$ 830,086	75%
INTERGOVERNMENTAL	$ 2,367,439		$ 1,112,068	$ 1,255,371	47%
CHARGES FOR SERVICES	$ 11,529,432		$ 6,603,828	$ 4,925,604	57%
FINES AND FORFEITURES	$ 26,000		$ 13,605	$ 12,395	52%
MISCELLANEOUS	$ 944,938		$ 905,799	$ 39,139	96%
OTHER SOURCES (NON-REVENUE)	$ 17,739,297		$ 4,943,545	$ 12,795,752	28%
REVENUE TOTALS	**$ 44,149,816**		**$ 22,628,070**	**$ 21,521,746**	**51%**
EXPENSE					
SALARIES AND BENEFITS	$ 23,420,577	$ 813	$ 11,488,694	$ 11,931,070	49%
OPERATING EXPENDITURES	$ 10,874,781	$ 2,340,278	$ 5,220,265	$ 3,314,238	70%
CAPITAL OUTLAY	$ 1,724,685	$ 146,275	$ 1,104,448	$ 473,962	73%
GRANTS, AIDS AND OTHER	$ 8,129,773	$ -	$ 1,056,986	$ 7,072,787	13%
EXPENSE TOTALS	**$ 44,149,816**	**$ 2,487,366**	**$ 18,870,393**	**$ 22,792,057**	**48%**
REVENUE TOTALS	**$ 44,149,816**	**$ -**	**$ 22,628,070**	**$ 21,521,746**	**51%**
EXPENSE TOTALS	**$ 44,149,816**	**$ 2,487,366**	**$ 18,870,393**	**$ 22,792,057**	**48%**
	$ -	**$ (2,487,366)**	**$ 3,757,677**	**$ (1,270,311)**	

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	458,061	294,172.25	64	3,206,427	5,161,301.32	161	5,496,736	335,434.68
20	00	DELINQUENT TAXES	1,250	99.75	8	8,750	99.82-	1	15,000	15,099.82
25	00	PENALTIES RE: TAXES	416	2,486.48	598	2,912	4,656.42	160	5,000	343.58
30	00	TAX CERTIFICATES	15,000	.00		105,000	.00		180,000	180,000.00
311	**	AD VALOREM	474,727	296,758.48	63	3,323,089	5,165,857.92	156	5,696,736	530,878.08
312		SALES USE AND FUEL TAXES								
41	00	LOCAL OPTION GAS TAX 6 CT	33,833	75,938.57	225	236,831	250,724.01	106	406,000	155,275.99
312	**	SALES USE AND FUEL TAXES	33,833	75,938.57	225	236,831	250,724.01	106	406,000	155,275.99
314		UTILITY SERVICE TAX								
10	00	ELECTRICITY	96,583	89,460.32	93	676,081	607,829.86	90	1,159,007	551,177.14
30	00	WATER-COCOA	27,888	28,053.10	101	195,216	198,016.88	101	334,667	136,650.12
40	00	GAS	1,666	5,183.97	311	11,662	11,452.87	98	20,000	8,547.13
80	00	PROPANE	1,251	3,008.12	241	8,757	16,375.39	187	15,013	1,362.39-
314	**	UTILITY SERVICE TAX	127,388	125,705.51	99	891,716	833,675.00	94	1,528,687	695,012.00
315		COMMUNICATION SERVICE TAX								
00	00	COMMUNICATION SERVICE TAX	33,642	32,079.03	95	235,494	139,457.06	59	403,706	264,248.94
315	**	COMMUNICATION SERVICE TAX	33,642	32,079.03	95	235,494	139,457.06	59	403,706	264,248.94
316		LOCAL BUSINESS TAX								
00	00	LOCAL BUSINESS TAX	13,750	3,808.44	28	96,250	147,015.89	153	165,000	17,984.11
316	**	LOCAL BUSINESS TAX	13,750	3,808.44	28	96,250	147,015.89	153	165,000	17,984.11
310	***	TAXES	683,340	534,290.03	78	4,783,380	6,536,729.88	137	8,200,129	1,663,399.12
320		OTHER PERMITS & FEES								
322		BUILDING PERMITS								
00	00	BUILDING PERMITS	16,666	17,759.25	107	116,662	151,722.92	130	200,000	48,277.08
10	00	TRAINING SURCHARGE	66	251.91	382	462	646.71	140	800	153.29
322	**	BUILDING PERMITS	16,732	18,011.16	108	117,124	152,369.63	130	200,800	48,430.37
323		FRANCHISE FEES								
10	00	ELECTRICITY	68,553	161,591.80	236	479,871	324,899.46	68	822,639	497,739.54
40	00	GAS	1,210	6,874.78	568	8,470	15,318.99	181	14,520	798.99-
70	00	SOLID WASTE	15,365	16,075.75	105	107,555	111,824.61	104	184,385	72,560.39
323	**	FRANCHISE FEES	85,128	184,542.33	217	595,896	452,043.06	76	1,021,544	569,500.94
325		SPECIAL ASSESSMENT								
12	01	FIRE PROTECTION	162,186	165,311.59	102	1,135,302	1,898,042.53	167	1,946,237	48,194.47

FUND 001 GENERAL FUND

ACCOUNT	ACCOUNT DESCRIPTION	CURRENT ESTIMATED	CURRENT ACTUAL	%REV	YEAR-TO-DATE ESTIMATED	YEAR-TO-DATE ACTUAL	%REV	ANNUAL ESTIMATE	UNREALIZED BALANCE
320	OTHER PERMITS & FEES								
325	SPECIAL ASSESSMENT								
12 02	DELINQUENT TAX	166	52.21	32	1,162	18.62	2	2,000	1,981.38
12 03	PENALTIES	166	12.14	7	1,162	480.26	41	2,000	1,519.74
12 04	TAX CERTIFICATES	12,500	.00		87,500	.00		150,000	150,000.00
12 *	SERVICE	175,018	165,375.94	95	1,225,126	1,898,541.41	155	2,100,237	201,695.59
325 **	SPECIAL ASSESSMENT	175,018	165,375.94	95	1,225,126	1,898,541.41	155	2,100,237	201,695.59
329	OTHER PERMITS & FEES								
00 00	OTHER PERMITS & FEES	0	.00		0	.00		0	.00
10 00	REPOSITORY FEES	0	.00		0	.00		0	.00
20 00	BUILDING PLANS REVIEW FEE	0	.00		0	.00		0	.00
25 00	PLANNING AND ZONING	1,666	620.00	37	11,662	7,170.50	62	20,000	12,829.50
30 00	PLANNING SITE PLAN REVIEW	0	.00		0	.00		0	.00
35 00	FIRE INSPECTIONS	0	380.00		0	2,370.00		0	2,370.00-
329 **	OTHER PERMITS & FEES	1,666	1,000.00	60	11,662	9,540.50	82	20,000	10,459.50
320 ***	OTHER PERMITS & FEES	278,544	368,929.43	132	1,949,808	2,512,494.60	129	3,342,581	830,086.40
330	INTERGOVERNMENTAL REVENUE								
331	FEDERAL GRANTS								
10 02	BROWNFIELDS REDEVELOP PR	0	.00		0	.00		0	.00
10 03	ENERGY EFFICIENT RETROFIT	0	.00		0	.00		0	.00
10 *	GENERAL GOVERNMENT	0	.00		0	.00		0	.00
20 01	RES OFFCR - CTY CONTRACT	8,666	26,000.00	300	60,662	78,000.00	129	104,000	26,000.00
20 05	DEPT OF JUSTICE GRANTS	2,073	.00		14,511	23,464.00	162	24,879	1,415.00
20 09	DOT SPEED CONTROL GRANT	0	.00		0	.00		0	.00
20 10	PROJECT SAFE NEIGHBORHOOD	0	.00		0	.00		0	.00
20 12	BULLET PROOF GRANT	760	.00		5,320	2,910.76	55	9,130	6,219.24
20 13	COPS-CHRP GRANT	0	.00		0	.00		0	.00
20 14	FEMA DEFIBRILLATORS	0	.00		0	.00		0	.00
20 15	VICTIMS OF CRIME ACT GRNT	10,071	3,837.36-	38	70,497	18,940.20	27	120,863	101,922.80
20 16	INTERNET CRIMES GRANT	833	.00		5,831	.00		10,000	10,000.00
20 17	BODY WORN CAMERA GRANT	1,500	.00		10,500	18,000.00	171	18,000	.00
20 18	EMS DATA COLLECTION-BEMO	6,108	.00		6,108	.00		36,650	36,650.00
20 *	PUBLIC SAFETY	30,011	22,162.64	74	173,429	141,314.96	82	323,522	182,207.04
30 01	FEMA ASSIST TO FF GRANT	0	.00		0	.00		0	.00
39 10	FED GRANT -TRANSPORTATION	0	.00		0	.00		0	.00
50 01	FEMA DISASTER RELIEF	0	21,458.20		0	74,488.44		0	74,488.44-
50 02	EDA-2018-DISASTER-11.307	3,750	.00		26,250	.00		45,000	45,000.00
50 03	FDEP-RESILIENCY4190120	7,018	.00		42,108	.00		77,200	77,200.00

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
330		INTERGOVERNMENTAL REVENUE								
331		FEDERAL GRANTS								
50	*	ECONOMIC ENVIRONMENT	10,768	21,458.20	199	68,358	74,488.44	109	122,200	47,711.56
70	01	NPS CIVIL RIGHTS GRANT	4,166	.00		29,162	.00		50,000	50,000.00
331	**	FEDERAL GRANTS	44,945	43,620.84	97	270,949	215,803.40	80	495,722	279,918.60
333		PAYMENT IN LIEU OF TAXES								
90	00	HOUSING AUTHORITY	3,333	.00		23,331	23,462.80	101	40,000	16,537.20
333	**	PAYMENT IN LIEU OF TAXES	3,333	.00		23,331	23,462.80	101	40,000	16,537.20
334		STATE GRANT								
50	01	STATE DISASTER REIMBURSE	0	.00		0	6,679.67		0	6,679.67-
50	02	COCOA CONSERVATION	0	.00		0	.00		0	.00
50	03	RESIDENTIAL RETROFIT	0	.00		0	.00		0	.00
50	04	DEO-19-THREATASSESS-P0299	2,222	.00		8,888	.00		20,000	20,000.00
50	*	ECONOMIC ENVIRONMENT	2,222	.00		8,888	6,679.67	75	20,000	13,320.33
90	30	HISTORIC PRESERVATION GRT	0	.00		0	.00		0	.00
334	**	STATE GRANT	2,222	.00		8,888	6,679.67	75	20,000	13,320.33
335		STATE SHARED REVENUES								
12	00	STATE REVENUE SHARING	41,666	45,369.86	109	291,662	272,219.13	93	500,000	227,780.87
12	20	8TH CNT MUNICIPAL GAS TAX	12,916	13,605.65	105	90,412	81,633.90	90	155,000	73,366.10
12	*	STATE REVENUE SHARING	54,582	58,975.51	108	382,074	353,853.03	93	655,000	301,146.97
14	00	MOBILE HOME LICENSES	1,666	731.50	44	11,662	17,961.75	154	20,000	2,038.25
15	00	ALCOHOLIC BEVERAGE	1,809	24.47-	1	12,663	24.47		21,717	21,692.53
18	00	LOCAL GOVERNMENT 1/2 CENT	90,833	92,375.65	102	635,831	476,690.83	75	1,090,000	613,309.17
21	00	FIREFIGHTER SUPPLEMENTAL	0	.00		0	4,230.00		0	4,230.00-
22	00	ENHANCED 911 FEE	0	.00		0	.00		0	.00
29	00	OTHER PUBLIC SAFETY	0	.00		0	.00		0	.00
41	00	FUEL TAX REFUNDS	2,083	.00		14,581	13,362.40	92	25,000	11,637.60
335	**	STATE SHARED REVENUES	150,973	152,058.19	101	1,056,811	866,122.48	82	1,811,717	945,594.52
337		GRANTS FROM LOCAL UNITS								
20	01	BC EMS GRANT	0	.00		0	.00		0	.00
40	00	TRANSPORTATION	0	.00		0	.00		0	.00
40	01	FDOT JOINT PARTICIPATION	0	.00		0	.00		0	.00
40	*	TRANSPORTATION	0	.00		0	.00		0	.00

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
330		INTERGOVERNMENTAL REVENUE								
337		GRANTS FROM LOCAL UNITS								
337	**	GRANTS FROM LOCAL UNITS	0	.00		0	.00		0	.00
338		SHARED REVENUE LOCAL UNIT								
10	01	EMS 1ST RESPONDER	0	.00		0	.00		0	.00
338	**	SHARED REVENUE LOCAL UNIT	0	.00		0	.00		0	.00
330	***	INTERGOVERNMENTAL REVENUE	201,473	195,679.03	97	1,359,979	1,112,068.35	82	2,367,439	1,255,370.65
340		CHARGES FOR SERVICES								
341		GENERAL GOVERNMENT								
10	00	RECORDING FEES	0	.00		0	.00		0	.00
15	00	PUBLIC RECORDS MODERNIZAT	0	.00		0	.00		0	.00
21	00	FINANCE/ACCOUNTING FEES	0	.00		0	.00		0	.00
23	00	W/S UTILITY ACCT.FEES	0	.00		0	.00		0	.00
30	00	ADMINISTRATIVE FEES	475,140	475,141.00	100	3,325,980	3,325,987.00	100	5,701,690	2,375,703.00
31	00	ADMIN FEES STORMWATER	7,861	7,862.00	100	55,027	55,034.00	100	94,343	39,309.00
40	00	CERTIFY/COPY/SEARCH	8,333	11,571.80	139	58,331	52,762.07	91	100,000	47,237.93
90	12	PASSPORT EXECUTION FEES	583	455.00	78	4,081	3,430.00	84	7,000	3,570.00
341	**	GENERAL GOVERNMENT	491,917	495,029.80	101	3,443,419	3,437,213.07	100	5,903,033	2,465,819.93
342		PUBLIC SAFETY								
10	00	POLICE SERVICES	1,666	.00		11,662	33,731.25	289	20,000	13,731.25-
90	00	OTHER PUBLIC SAFETY	0	.00		0	450.00		0	450.00-
90	01	FALSE ALARM FEES	925	400.00	43	6,475	5,540.00	86	11,100	5,560.00
90	02	MOTOR VEHICLE ACCIDENT	0	.00		0	.00		0	.00
90	*	OTHER PUBLIC SAFETY	925	400.00	43	6,475	5,990.00	93	11,100	5,110.00
342	**	PUBLIC SAFETY	2,591	400.00	15	18,137	39,721.25	219	31,100	8,621.25-
343		PHYSICAL ENVIRONMENT								
37	10	BREVARD COUNTY	35,159	39,664.00	113	246,113	235,780.00	96	421,913	186,133.00
37	11	ROCKLEDGE	22,210	23,579.20	106	155,470	141,407.36	91	266,528	125,120.64
37	12	SUN LAKE	292	302.40	104	2,044	1,861.44	91	3,515	1,653.56
37	13	CLNY PK-M.I.UTIL CO.	157	159.04	101	1,099	952.00	87	1,895	943.00
37	16	COCOA BEACH	9,171	9,229.92	101	64,197	95,197.88	148	110,063	14,865.12
37	17	CAPE CANAVERAL	7,571	7,550.08	100	52,997	45,462.67	86	90,856	45,393.33
37	18	TITUSVILLE	330	344.96	105	2,310	2,100.31	91	3,961	1,860.69
37	*	WATER BILLING SERVICES	74,890	80,829.60	108	524,230	522,761.66	100	898,731	375,969.34
39	01	SERVICE CHARGES	34,666	24,965.00	72	242,662	209,797.69	87	416,000	206,202.31
39	03	ADMIN CHARGES	33,333	30,630.00	92	233,331	208,710.00	89	400,000	191,290.00

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
340	CHARGES FOR SERVICES								
343	PHYSICAL ENVIRONMENT								
39 04	PENALTIES	72,916	65,795.86	90	510,412	473,670.11	93	875,000	401,329.89
39 05	NSF CHECKS	2,960	2,265.00	77	20,720	19,912.56	96	35,525	15,612.44
39 *	WATER OTHER INCOME	143,875	123,655.86	86	1,007,125	912,090.36	91	1,726,525	814,434.64
41 10	GARBAGE REVENUES	173,241	168,541.22	97	1,212,687	1,171,103.94	97	2,078,903	907,799.06
41 20	RECYCLING REVENUE	18,065	18,377.78	102	126,455	128,669.76	102	216,789	88,119.24
41 30	GREEN WASTE	15,449	15,759.54	102	108,143	110,064.57	102	185,394	75,329.43
41 *	GARBAGE COLLECTION	206,755	202,678.54	98	1,447,285	1,409,838.27	97	2,481,086	1,071,247.73
45 10	BILLING FEE - WEST WASTE	8,058	8,252.24	102	56,406	49,933.26	89	96,697	46,763.74
45 20	SALE - RECYCLING MATERIAL	166	.00		1,162	28.15	2	2,000	1,971.85
45 *	GARBAGE - OTHER REVENUE	8,224	8,252.24	100	57,568	49,961.41	87	98,697	48,735.59
46 10	EARNED NOT BILLED	0	.00		0	.00		0	.00
90 01	MEDIAN MAINTENANCE	4,361	13,084.00	300	30,527	26,168.00	86	52,336	26,168.00
90 02	ADOPT A MEDIAN PROGRAM	0	.00		0	.00		0	.00
90 03	FDOT MNT SIGNAL/HWY LIGHT	16,161	.00		113,127	107,307.00	95	193,934	86,627.00
90 *	OTHER PHYSICAL ENVIRON	20,522	13,084.00	64	143,654	133,475.00	93	246,270	112,795.00
343 **	PHYSICAL ENVIRONMENT	454,266	428,500.24	94	3,179,862	3,028,126.70	95	5,451,309	2,423,182.30
347	CULTURE/RECREATION								
20 10	DOWNTOWN GAZEBO RENTAL	0	.00		0	.00		0	.00
20 15	JUNNY RIOS PARK RENTAL	0	.00		0	.00		0	.00
20 *	PARKS & RECREATION	0	.00		0	.00		0	.00
39 00	OTHER CULTURAL SERVICES	0	.00		0	.00		0	.00
39 10	PORCHER HOUSE - REVENUES	4,583	2,005.66	44	32,081	27,088.10	84	55,000	27,911.90
39 11	TENANT MAINTENANCE FEES	116	95.96	83	812	788.28	97	1,400	611.72
39 20	COCOA CIVIC CENTER	3,333	5,163.96	155	23,331	33,036.69	142	40,000	6,963.31
39 21	CC - BRIDAL SHOWS	0	.00		0	.00		0	.00
39 30	RIVERFRONT PARK	1,666	3,670.00	220	11,662	14,741.42	126	20,000	5,258.58
39 *	OTHER CULTURAL SERVICES	9,698	10,935.58	113	67,886	75,654.49	111	116,400	40,745.51
40 01	COCOA VILLAGE 10% GROSS	1,250	50.00	4	8,750	550.00	6	15,000	14,450.00
40 05	PERMIT FEES	208	1,000.00	481	1,456	7,185.00	494	2,500	4,685.00-
40 10	MARDI GRAS	0	.00		0	.00		0	.00
40 *	SPECIAL EVENTS	1,458	1,050.00	72	10,206	7,735.00	76	17,500	9,765.00

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
340	CHARGES FOR SERVICES								
347	CULTURE/RECREATION								
50 10	EVENT FEES	382	742.98	195	2,674	2,777.94	104	4,590	1,812.06
50 20	CONCESSION SALES	0	.00		0	.00		0	.00
50 30	ADVERTISING/SPONSORSHIPS	458	.00		3,206	12,600.00	393	5,500	7,100.00-
50 40	SCHOOL BOARD	0	.00		0	.00		0	.00
50 *	SPECIAL REC FACILITIES	840	742.98	89	5,880	15,377.94	262	10,090	5,287.94-
347 **	CULTURE/RECREATION	11,996	12,728.56	106	83,972	98,767.43	118	143,990	45,222.57
349	OTHER CHARGES FOR SERVICE								
01 00	CREDIT CARD FEES	0	.00		0	.00		0	.00
349 **	OTHER CHARGES FOR SERVICE	0	.00		0	.00		0	.00
340 ***	CHARGES FOR SERVICES	960,770	936,658.60	98	6,725,390	6,603,828.45 ✓	98	11,529,432 ✓	4,925,603.55 ✓
350	FINES AND FORFEITURES								
351	JUDGMENTS AND FINES								
10 00	COUNTY COURT CRIMINAL	0	.00		0	.00		0	.00
50 00	800 MHZ FINES	0	.00		0	.00		0	.00
90 00	OTHER	2,166	2,887.97	133	15,162	13,605.03	90	26,000	12,394.97
351 **	JUDGMENTS AND FINES	2,166	2,887.97	133	15,162	13,605.03	90	26,000	12,394.97
354	LOCAL ORDINANCE VIOLATION								
00 00	LOCAL ORDINANCE VIOLATION	0	.00		0	.00		0	.00
354 **	LOCAL ORDINANCE VIOLATION	0	.00		0	.00		0	.00
355	FEDERAL								
00 00	FEDERAL	0	.00		0	.00		0	.00
355 **	FEDERAL	0	.00		0	.00		0	.00
356	STATE								
00 00	STATE	0	.00		0	.00		0	.00
356 **	STATE	0	.00		0	.00		0	.00
350 ***	FINES AND FORFEITURES	2,166	2,887.97	133	15,162	13,605.03 ✓	90	26,000 ✓	12,394.97 ✓
360	MISCELLANEOUS REVENUES								
361	INTEREST & OTHER EARNINGS								
10 00	INTEREST	4,166	10,257.81	246	29,162	54,552.58	187	50,000	4,552.58-
20 00	DIVIDENDS	0	.00		0	3,351.90		0	3,351.90-
38 00	NET INC/DEC-FMV INVESTMNT	0	.00		0	7,373,944.62-		0	7,373,944.62

* Accounting timing issue

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
360		MISCELLANEOUS REVENUES								
361		INTEREST & OTHER EARNINGS								
40	00	GAIN/LOSS SALE INVEST	0	.00		0	118.36-		0	118.36
40	02	UNREALIZED GAIN/LOSS	0	.00		0	30,391.06		0	30,391.06-
40	*	GAIN/LOSS SALE INVEST	0	.00		0	30,272.70		0	30,272.70-
361	**	INTEREST & OTHER EARNINGS	4,166	10,257.81	246	29,162	7,285,767.44-	4984	50,000	7,335,767.44
362		RENT AND ROYALTIES								
00	00	RENT AND ROYALTIES	10,432	13,516.66	130	73,024	73,958.39	101	125,186	51,227.61
362	**	RENT AND ROYALTIES	10,432	13,516.66	130	73,024	73,958.39	101	125,186	51,227.61
364		DISPOSITION FIXED ASSETS								
00	00	DISPOSITION FIXED ASSETS	0	.00		0	6,849.55		0	6,849.55-
10	00	GAIN/LOSS	0	.00		0	110.67		0	110.67-
20	00	INTERFUND LOANS	0	.00		0	.00		0	.00
364	**	DISPOSITION FIXED ASSETS	0	.00		0	6,960.22		0	6,960.22-
365		SALES OF SURPLUS SCRAP								
00	00	SALES OF SURPLUS SCRAP	0	.00		0	.00		0	.00
365	**	SALES OF SURPLUS SCRAP	0	.00		0	.00		0	.00
366		CONTRIBUTIONS & DONATIONS								
00	00	CONTRIBUTIONS & DONATIONS	16,041	10,417.00	65	112,287	469,733.00	418	192,500	277,233.00-
10	09	POLICE/FIRE DEPTS	0	.00		0	.00		0	.00
10	10	CONTRIBS FOR K-9	0	.00		0	.00		0	.00
10	12	V-COP REVENUES	0	.00		0	.00		0	.00
10	13	VISIT FLORIDA GRANT	0	.00		0	.00		0	.00
10	20	TOY DRIVE	0	.00		0	.00		0	.00
10	*	DONATIONS-PRIVATE SOURCES	0	.00		0	.00		0	.00
366	**	CONTRIBUTIONS & DONATIONS	16,041	10,417.00	65	112,287	469,733.00	418	192,500	277,233.00-
367		LICENSES								
00	00	LICENSES	0	.00		0	.00		0	.00
367	**	LICENSES	0	.00		0	.00		0	.00
368		PENSION CONTRIBUTIONS								
00	00	PENSION CONTRIBUTIONS	0	.00		0	.00		0	.00
21	00	POLICE STATE CONTRIBUTION	12,844	.00		89,908	.00		154,135	154,135.00
22	00	FIRE STATE CONTRIBUTION	10,895	.00		76,265	.00		130,749	130,749.00

CITY OF COCOA, FLORIDA

FUND 001 GENERAL FUND

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360		MISCELLANEOUS REVENUES								
368		PENSION CONTRIBUTIONS								
368	**	PENSION CONTRIBUTIONS	23,739	.00		166,173	.00		284,884	284,884.00
369		OTHER MISC REVENUES								
90	00	OTHER MISC REVENUES	6,250	717.98	12	43,750	64,629.98	148	75,000	10,370.02
90	01	COKE MACHINE	0	.00		0	.00		0	.00
90	02	POLICE SECURITY SERVICES	6,047	3,273.35	54	42,329	18,445.00	44	72,568	54,123.00
90	03	CODE ENF ABATE/DEMO REV	6,250	35,875.47	574	43,750	92,526.78	212	75,000	17,526.78-
90	04	MISC. POLICE REVENUES	0	412.33		0	1,274.30		0	1,274.30-
90	05	INVESTIGATIVE COSTS REIM	4,775	4,466.29	94	33,425	33,113.51	99	57,300	24,186.49
90	06	SETTLEMENTS	0	.00		0	.00		0	.00
90	07	FLORIDA HARDEST HIT	416	.00		2,912	300.00	10	5,000	4,700.00
90	08	ATF TASK FORCE	0	.00		0	.00		0	.00
90	09	PROPERTY REGISTRATION	625	1,000.00	160	4,375	3,900.00	89	7,500	3,600.00
90	10	POLICE STRIKEFORCE	0	.00		0	.00		0	.00
90	11	EXCESS INSURANCE PREMIUM	0	.00		0	.00		0	.00
90	99	COCOA PLAYHOUSE	0	.00		0	.00		0	.00
90	*	OTHER MISC REVENUES	24,363	45,745.42	188	170,541	214,189.57	126	292,368	78,178.43
96	00	INSURANCE REFUND/PROCEEDS	0	787.79		0	52,780.29		0	52,780.29-
369	**	OTHER MISC REVENUES	24,363	46,533.21	191	170,541	266,969.86	157	292,368	25,398.14
360	***	MISCELLANEOUS REVENUES	78,741	80,724.68	103	551,187	6,468,145.97-	1174	944,938 ✓	7,413,083.97
							+7,373,944.62 =		$905,798.65 ✓	
380		OTHER SOURCES(NON-REV)								
381		INTERFUND TRANSFER								
91	03	CDBG (103)	0	.00		0	.00		0	.00
91	10	TRF FROM COCOA CRA (110)	4,401	26,156.98	594	30,807	52,819.76	172	52,820	.24
91	11	TRF FROM DIAMOND SQ (111)	0	.00		0	.00		0	.00
91	12	US1 CORRIDOR (112)	0	.00		0	.00		0	.00
91	21	WATER SEWER FUND (421)	0	.00		0	.00		0	.00
91	23	STORMWATER (423)	0	.00		0	.00		0	.00
91	25	RESTRICTED ASSETS (425)	0	.00		0	.00		0	.00
91	30	CAP PROJECT FUND (301)	311	.00		1,244	.00		2,800	2,800.00
91	41	TRF FROM CONFISCATED(141)	0	.00		0	.00		0	.00
91	*	TRANSFER FROM	4,712	26,156.98	555	32,051	52,819.76	165	55,620	2,800.24
381	**	INTERFUND TRANSFER	4,712	26,156.98	555	32,051	52,819.76	165	55,620	2,800.24
382		CONTRIBUTIONS ENTERPRISE								
40	00	CONTRIBUTIONS WATER REV.	590,999	590,999.00	100	4,136,993	4,136,993.00	100	7,091,990	2,954,997.00
40	01	6% CONTRIBUTION	107,675	107,676.00	100	753,725	753,732.00	100	1,292,109	538,377.00
40	*	CONTRIBUTIONS WATER REV.	698,674	698,675.00	100	4,890,718	4,890,725.00	100	8,384,099	3,493,374.00

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
380		OTHER SOURCES(NON-REV)								
382		CONTRIBUTIONS ENTERPRISE								
382	**	CONTRIBUTIONS ENTERPRISE	698,674	698,675.00	100	4,890,718	4,890,725.00	100	8,384,099	3,493,374.00
383		INSTLMT PURCH/CAP LEASE								
10	00	INSTALMNT PURC/CAP LEASE	0	.00		0	.00		0	.00
383	**	INSTLMT PURCH/CAP LEASE	0	.00		0	.00		0	.00
384		DEBT PROCEEDS								
00	00	DEBT PROCEEDS	0	.00		0	.00		0	.00
384	**	DEBT PROCEEDS	0	.00		0	.00		0	.00
385		PROCEEDS REFUNDING BONDS								
00	00	PROCEEDS REFUNDING BONDS	0	.00		0	.00		0	.00
385	**	PROCEEDS REFUNDING BONDS	0	.00		0	.00		0	.00
389		NON OPERATING SOURCES								
85	00	CONTRIBUTIONS-SUBDIVIDERS	0	.00		0	.00		0	.00
90	00	NON OPERATING SOURCES	16,292	.00		114,044	.00		195,509	195,509.00
90	20	PREMIUM ON DEBT ISSUE	0	.00		0	.00		0	.00
90	*	NON OPERATING SOURCES	16,292	.00		114,044	.00		195,509	195,509.00
99	10	CASH CARRY FORWARD	0	.00		0	.00		0	.00
99	11	RESTR. CASH CARRY FORWARD	0	.00		0	.00		0	.00
99	50	FUND BAL-APPROP. RESERVES	774,435	.00		5,231,899	.00		9,104,069	9,104,069.00
99	*	BALANCE FORWARD	774,435	.00		5,231,899	.00		9,104,069	9,104,069.00
389	**	NON OPERATING SOURCES	790,727	.00		5,345,943	.00		9,299,578	9,299,578.00
380	***	OTHER SOURCES(NON-REV)	1,494,113	724,831.98	49	10,268,712	4,943,544.76	48	17,739,297	12,795,752.24
FUND TOTAL GENERAL FUND			3,699,147	2,844,001.72	77	25,653,618	15,254,125.10	60	44,149,816	28,895,690.90

22,628,070

21,521,746

REPORT SELECTIONS

Fiscal year . . . . . : 2019
Fund . . . . . : 001
All Departments
All Divisions
Suppress accounts with zero balances . . . . : N

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	ERROR	2628	2550.00	97	18396	17501.84	95	.00	31542	14040.16	56
11 **	ERROR	2628	2550.00	97	18396	17501.84	95	.00	31542	14040.16	56
12-00	REGULAR SALARIES & WAGES	987626	833124.32	84	7028935	6001170.55	85	.00	11967194	5966023.45	50
12-06	SALARIES/CONTRACTUAL	2206	350.00	16	13780	25160.00	183	.00	24810	350.00-	101
12-07	EMS 1ST RESPONDER	0	.00	0	0	.00	0	.00	0	.00	0
12-10	SALARY ADJUSTMENTS	0	.00	0	0	.00	0	.00	0	.00	0
12-11	LEAVE INCENTIVE SELL BACK	0	.00	0	0	.00	0	.00	0	.00	0
12-12	ACCRUAL PAYOUTS	23036	.00	0	25052	140683.06	562	.00	140236	447.06-	100
12-13	COPS CHRP	0	.00	0	0	.00	0	.00	0	.00	0
12 **	REGULAR SALARIES & WAGES	1012868	833474.32	82	7067767	6167013.61	87	.00	12132240	5965226.39	51
13-00	OTHER SALARIES & WAGES	90403	65723.59	73	564919	452901.93	80	.00	1016978	564076.07	45
13 **	OTHER SALARIES & WAGES	90403	65723.59	73	564919	452901.93	80	.00	1016978	564076.07	45
14-00	OVERTIME	31837	17588.81	55	221253	170428.71	77	.00	380534	210105.29	45
14-01	COMP TIME	833	.00	0	5831	143.76	3	.00	10000	9856.24	1
14 **	OVERTIME	32670	17588.81	54	227084	170572.47	75	.00	390534	219961.53	44
15-00	SPECIAL PAY	29725	25328.06	85	206017	182460.84	89	.00	354649	172188.16	51
15 **	SPECIAL PAY	29725	25328.06	85	206017	182460.84	89	.00	354649	172188.16	51
20-00	STATE GOVT	1778	360.00	20	11732	10786.32	92	.00	20650	9863.68	52
20 **	STATE GOVT	1778	360.00	20	11732	10786.32	92	.00	20650	9863.68	52
21-00	FICA TAXES	86897	70276.82	81	593692	518876.13	87	.00	1028312	509435.87	51
21 **	FICA TAXES	86897	70276.82	81	593692	518876.13	87	.00	1028312	509435.87	51
22-00	RETIREMENT CONTRIBUTIONS	86176	52012.23	60	594880	637536.34	107	.00	1025844	388307.66	62
22-01	LICENSED POLICE/FIRE	196119	154696.59	79	1372833	1212483.82	88	.00	2353438	1140954.18	52
22-02	STATE CONTRIBUTIONS	21600	.00	0	176860	.00	0	.00	284884	284884.00	0
22-03	ICMA - CITY MANAGER	1153	1033.28	90	8071	6136.70	76	.00	13837	7700.30	44

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 **	RETIREMENT CONTRIBUTIONS	305048	207742.10	68	2152644	1856156.86	86	.00	3678003	1821846.14	51
23-00	LIFE/HEALTH INSURANCE	326227	231840.24	71	2269720	1695268.75	75	813.00	3900958	2204876.25	44
23-03	CONTRA CIGNA SAVINGS	0	.00	0	0	.00	0	.00	0	.00	0
23 **	LIFE/HEALTH INSURANCE	326227	231840.24	71	2269720	1695268.75	75	813.00	3900958	2204876.25	44
24-00	WORKER'S COMPENSATION	51195	38867.14	76	358355	290709.79	81	.00	614443	323733.21	47
24 **	WORKER'S COMPENSATION	51195	38867.14	76	358355	290709.79	81	.00	614443	323733.21	47
25-00	UNEMPLOYMENT COMPENSATION	416	.00	0	2912	.00	0	.00	5000	5000.00	0
25 **	UNEMPLOYMENT COMPENSATION	416	.00	0	2912	.00	0	.00	5000	5000.00	0
27-00	CAFETERIA PLAN	21031	19190.00	91	142111	126445.00	89	.00	247268	120823.00	51
27 **	CAFETERIA PLAN	21031	19190.00	91	142111	126445.00	89	.00	247268	120823.00	51
31-00	PROFESSIONAL SERVICES	50311	11581.46	23	303434	119834.00	40	168762.76	555042	266445.24	52
31-01	LEGAL EXPENSES	52827	51359.69	97	260787	259583.15	100	143695.30	524921	121642.55	77
31-02	MEDICAL SERVICES	3525	515.50	15	24675	26144.36	106	11724.07	42310	4441.57	90
31-03	ENGINEERING SERVICES	0	.00	0	0	.00	0	.00	0	.00	0
31-05	EMS 1ST RESPONDER	1125	.00	0	7875	13500.00	171	.00	13500	.00	100
31-33	EMPLOYEE HEALTH CENTER	14962	14031.72	94	104734	91370.10	87	88179.90	179550	.00	100
31 **	PROFESSIONAL SERVICES	122750	77488.37	63	701505	510431.61	73	412362.03	1315323	392529.36	70
32-00	ACCOUNTING & AUDITING	3333	10000.00	300	23331	40000.00	171	.00	40000	.00	100
32 **	ACCOUNTING & AUDITING	3333	10000.00	300	23331	40000.00	171	.00	40000	.00	100
34-00	CONTRACT SERVICES	92464	90876.59	98	608064	528678.13	87	369564.08	1070446	172203.79	84
34-01	created by mistake	0	.00	0	0	.00	0	.00	0	.00	0
34-02	FDEP-RESILIENCY4190120	7018	.00	0	42108	.00	0	77200.00	77200	.00	100
34-03	DEO-19-THREATASSESS-P0299	157222	158965.62	101	1093888	951172.72	87	20000.00	1880000	908827.28	52
34-07	JANITORIAL CONTRACT SVS	0	.00	0	0	.00	0	.00	0	.00	0
34-09	MOWING CONTRACTS	8346	7788.00	93	51730	38940.00	75	54516.00	93456	.00	100

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
34-10	COST OF GENERAL FUND SVCS	0	.00	0	0	.00	0	.00	0	.00	0
34 **	CONTRACT SERVICES	265050	257630.21	97	1795790	1518790.85	85	521280.08	3121102	1081031.07	65
39-00	CONTINGENCY	16917-	.00	0	202984	.00	0	.00	118394	118394.00	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
39-11	SERIES 2010 GF BOND	0	.00	0	0	.00	0	.00	0	.00	0
39-15	WAGE AND SALARY	4447	.00	0	22235	.00	0	.00	0	.00	0
39-20	FUEL, OIL & LUBRICANTS	0	.00	0	0	.00	0	.00	0	.00	0
39 **	CONTINGENCY	12470-	.00	0	225219	.00	0	.00	118394	118394.00	0
40-00	TRAVEL & PER DIEM	5235	7069.33	135	36645	16266.76	44	.00	62905	46638.24	26
40-01	CAR ALLOWANCE	0	.00	0	0	.00	0	.00	0	.00	0
40 **	TRAVEL & PER DIEM	5235	7069.33	135	36645	16266.76	44	.00	62905	46638.24	26
41-00	COMMUNICATION	17797	16906.08	95	123346	94226.50	76	76337.36	212374	41810.14	80
41 **	COMMUNICATION	17797	16906.08	95	123346	94226.50	76	76337.36	212374	41810.14	80
42-00	POSTAGE & FREIGHT	36036	33387.32	93	252252	192426.68	76	206540.65	432538	33570.67	92
42 **	POSTAGE & FREIGHT	36036	33387.32	93	252252	192426.68	76	206540.65	432538	33570.67	92
43-00	ELECTRIC/WATER/SEWER	59464	51439.54	87	410782	313277.48	76	344501.66	708136	50356.86	93
43 **	ELECTRIC/WATER/SEWER	59464	51439.54	87	410782	313277.48	76	344501.66	708136	50356.86	93
44-00	RENTALS AND LEASES	12454	11476.60	92	91690	97656.53	107	21851.83	154001	34492.64	78
44 **	RENTALS AND LEASES	12454	11476.60	92	91690	97656.53	107	21851.83	154001	34492.64	78
45-00	INSURANCE	35993	102060.68	284	251951	310776.81	123	.00	431976	121199.19	72
45 **	INSURANCE	35993	102060.68	284	251951	310776.81	123	.00	431976	121199.19	72
46-00	REPAIRS & MAINTENANCE	95611	34235.73	36	670187	606691.33	91	452999.62	1148286	88595.05	92
46-02	REPAIR/MAINT BUILDING	23657	13095.04	55	163643	135371.66	83	30663.54	281926	115890.80	59
46-03	REPAIR/MAINT-VEHICLES	19376	36064.71	186	135350	120012.65	89	16259.85-	232295	128542.20	45

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
46-05	HYDRANT FEES	16894	17459.28	103	118258	122214.96	103	.00	202734	80519.04	60
46-15	INSURED VEHICLE ACCIDENT	0	.00	0	0	.00	0	.00	0	.00	0
46 **	REPAIRS & MAINTENANCE	155538	100854.76	65	1087438	984290.60	91	467403.31	1865241	413547.09	78
47-00	PRINTING & BINDING	12067	10896.15	90	85242	62092.41	73	65072.60	145640	18474.99	87
47 **	PRINTING & BINDING	12067	10896.15	90	85242	62092.41	73	65072.60	145640	18474.99	87
48-00	PROMOTIONAL ACTIVITIES	2704	436.62	16	20917	16178.73	77	323.75	34467	17964.52	48
48-11	BUSINESS ASSIST. PROGRAM	833	.00	0	5831	.00	0	.00	10000	10000.00	0
48-12	CHRISTMAS TREE EVENT 2009	0	.00	0	0	.00	0	.00	0	.00	0
48 **	PROMOTIONAL ACTIVITIES	3537	436.62	12	26748	16178.73	61	323.75	44467	27964.52	37
49-00	OTHER CHARGES & OBLIG.	38482	33712.49	88	169778	230256.52	136	67139.82	362248	64851.66	82
49-02	ADVERTISING	68	.00	0	476	.00	0	.00	825	825.00	0
49-05	BROWNFIELDS REDEV PROG	0	.00	0	0	.00	0	.00	0	.00	0
49-06	BROWNFIELD PROG CITY COST	1250	.00	0	8750	395.48	5	.00	15000	14604.52	3
49-07	BAD DEBT EXPENSE	12499	2709.55-	22-	87493	35747.82-	41-	.00	150000	185747.82	24-
49-08	CASH OVER/SHORT	0	9.72	0	0	9.72	0	.00	0	9.72-	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	1666	.00	0	11662	10000.00	86	.00	20000	10000.00	50
49 **	OTHER CHARGES & OBLIG.	53965	31012.66	58	278159	204913.90	74	67139.82	548073	276019.28	50
51-00	OFFICE SUPPLIES	0	.00	0	0	.00	0	.00	0	.00	0
51 **	OFFICE SUPPLIES	0	.00	0	0	.00	0	.00	0	.00	0
52-00	OPERATING SUPPLIES	82976	71259.26	86	556041	581497.56	105	76373.53	971059	313187.91	68
52-02	UNIFORMS	1727	99.99	6	12089	17486.06	145	993.94	20730	2250.00	89
52-05	EMS 1st RESP-CONSUM SUPP	2596	1878.92	72	23836	15383.28	65	12674.29	36818	8760.43	76
52-07	JANITORIAL SUPPLIES	2513	2478.23	99	17591	13123.66	75	1105.00	30186	15957.34	47

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
52-10	HEATING FUEL	266	196.38	74	1496	1515.04	101	1129.96	2825	180.00	94
52-11	JAG GRANT	2764	.00	0	11056	.00	0	.00	24879	24879.00	0
52-30	FUEL, OIL, & LUBRICANTS	21621	15330.80	71	151347	96710.27	64	.00	259511	162800.73	37
52-33	EMPLOYEE HEALTH CENTER	7600	6251.08	82	53200	34097.46	64	57102.54	91200	.00	100
52 **	OPERATING SUPPLIES	122063	97494.66	80	826656	759813.33	92	149379.26	1437208	528015.41	63
53-00	ROAD MATERIALS/SUPPLIES	1250	6674.15	534	8750	11283.69	129	1346.11	15000	2370.20	84
53 **	ROAD MATERIALS/SUPPLIES	1250	6674.15	534	8750	11283.69	129	1346.11	15000	2370.20	84
54-00	MEMBERSHIP/PUBLICATIONS	5444	2555.02	47	38060	47040.23	124	300.00-	65393	18652.77	72
54 **	MEMBERSHIP/PUBLICATIONS	5444	2555.02	47	38060	47040.23	124	300.00-	65393	18652.77	72
55-00	TRAINING	9164	3753.79	41	64430	40294.09	63	7040.00	110360	63025.91	43
55-01	EDA PROGRAM	833	.00	0	5831	504.77	9	.00	10000	9495.23	5
55 **	TRAINING	9997	3753.79	38	70261	40798.86	58	7040.00	120360	72521.14	40
56-15	IT-RELATED OPERATING EXP	0	.00	0	0	.00	0	.00	0	.00	0
56-16	EMS DATA COLLECTION-BEMO	6108	.00	0	6108	.00	0	.00	36650	36650.00	0
56 **	TECHNOLOGY SYSTEMS	6108	.00	0	6108	.00	0	.00	36650	36650.00	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	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	0	25.30-	0	0	.00	0	.00	0	.00	0
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	0	25.30-	0	0	.00	0	.00	0	.00	0
63-00	INFRASTRUCTURE	80025	4810.50	6	522582	619722.98	119	2050.00	922700	300927.02	67
63 **	INFRASTRUCTURE	80025	4810.50	6	522582	619722.98	119	2050.00	922700	300927.02	67
64-00	MACHINERY AND EQUIPMENT	56389	98134.00	174	407539	412615.96	101	144225.25	689531	132689.79	81
64-01	JAG GRANT	691-	.00	0	3455	.00	0	.00	0	.00	0
64-15	IT HARDWARE	7256	.00	0	58809	57109.44	97	.00	95134	38024.56	60
64-33	EMPLOYEE HEALTH CENTER	0	.00	0	0	.00	0	.00	0	.00	0
64 **	MACHINERY AND EQUIPMENT	62954	98134.00	156	469803	469725.40	100	144225.25	784665	170714.35	78
68-10	SFTWR & OTHER INTANGIBLES	1024	.00	0	12187	15000.00	123	.00	17320	2320.00	87
68 **	INTANGIBLE ASSETS	1024	.00	0	12187	15000.00	123	.00	17320	2320.00	87
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	83415	.00	0	583905	1000986.00	171	.00	1000986	.00	100
81 **	AIDS TO GOVT AGENCY	83415	.00	0	583905	1000986.00	171	.00	1000986	.00	100
82-01	ECON DEV INCENTIVE CONTR	857	.00	0	1714	6000.00	350	.00	6000	.00	100
82 **	AID PRIVATE ORGANIZATION	857	.00	0	1714	6000.00	350	.00	6000	.00	100
83-00	OTHER GRANTS & AIDS	0	.00	0	0	.00	0	.00	0	.00	0
83-01	MISC GRANTS/DONATIONS	15115	50000.00	331	70090	50000.00	71	.00	145673	95673.00	34
83 **	OTHER GRANTS AND AIDS	15115	50000.00	331	70090	50000.00	71	.00	145673	95673.00	34
91-03	CDBG (103)	0	.00	0	0	.00	0	.00	0	.00	0
91-04	BC HOME (104)	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
91-10	CRA (110)	0	.00	0	0	.00	0	.00	0	.00	0
91-11	DIAMOND SQUARE (111)	0	.00	0	0	.00	0	.00	0	.00	0
91-12	US 1 CORRIDOR (112)	0	.00	0	0	.00	0	.00	0	.00	0
91-20	TRANSFER TO DEBT SVC 201	0	.00	0	0	.00	0	.00	0	.00	0
91-21	WATER SEWER 421	0	.00	0	0	.00	0	.00	0	.00	0
91-23	TO STORMWATER 423	19405	.00	0	135835	.00	0	.00	232864	232864.00	0
91-25	TO RESTRICTED ASSET 425	0	.00	0	0	.00	0	.00	0	.00	0
91-30	GF CAPITAL PROJECTS 301	293750	.00	0	2056250	.00	0	.00	3525000	3525000.00	0
91-32	CP 302 RVRFRNT/LEEWNR PK	143270	.00	0	1002890	.00	0	.00	1719250	1719250.00	0
91-33	CP 303 FISKE BV CMPLT STR	125000	.00	0	875000	.00	0	.00	1500000	1500000.00	0
91-52	SELF INSURANCE FUND 520	0	.00	0	0	.00	0	.00	0	.00	0
91-53	HEALTH INSURANCE FUND 530	0	.00	0	0	.00	0	.00	0	.00	0
91 **	INTERFUND TRANSFER	581425	.00	0	4069975	.00	0	.00	6977114	6977114.00	0
FUND 001	TOTAL *********										
	GENERAL FUND	3701312	2486996.22	67	25685538	18870392.89	74	2487366.71	44149816	22792056.40	48
GRAND	TOTAL *********										
		3701312	2486996.22	67	25685538	18870392.89	74	2487366.71	44149816	22792056.40	48

FY 2019 Budget by Classification Report - Summary Listing

4/30/2019

Target for April 2019 is 58%

FUND 421 - WATER/SEWER FUND

	Amended Budget	YTD Encumbrances	YTD Actual Transactions	Budget - YTD Transactions	% Used/Rec'd
REVENUE					
IMPACT FEES	$ 2,075,989		$ 1,585,175	$ 490,814	76%
CHARGES FOR SERVICES	$ 57,603,822		$ 35,542,068	$ 22,061,754	62%
MISCELLANEOUS	$ 225,039		$ 481,510	$ (256,471)	214%
OTHER SOURCES (NON-REVENUE)	$ 9,403,435		$ 861,492	$ 8,541,943	9%
REVENUE TOTALS	**$ 69,308,285**	**-**	**$ 38,470,245**	**$ 30,838,040**	**56%**
EXPENSE					
SALARIES AND BENEFITS	$ 15,165,873	$ -	$ 7,406,091	$ 7,759,782	49%
OPERATING EXPENDITURES	$ 25,424,114	$ 6,656,951	$ 11,189,971	$ 7,577,192	70%
CAPITAL OUTLAY	$ 9,155,284	$ 4,999,327	$ 1,389,396	$ 2,766,561	70%
GRANTS, AIDS AND OTHER	$ 19,563,014	$ -	$ 13,930,771	$ 5,632,243	71%
EXPENSE TOTALS	**$ 69,308,285**	**$ 11,656,278**	**$ 33,916,229**	**$ 23,735,778**	66%
REVENUE TOTALS	**$ 69,308,285**	**$ -**	**$ 38,470,245**	**$ 30,838,040**	**56%**
EXPENSE TOTALS	**$ 69,308,285**	**$ 11,656,278**	**$ 33,916,229**	**$ 23,735,778**	**66%**
	$ -	**$ (11,656,278)**	**$ 4,554,016**	**$ 7,102,262**	

CITY OF COCOA, FLORIDA

FUND 421 WATER/SEWER ENTERPRISE

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 10	WATER - RESIDENTIAL	79,910	47,425.00	59	559,370	806,825.00	144	958,928	152,103.00
03 11	WATER - COMMERCIAL	83,172	436,375.00	525	582,204	668,975.00	115	998,067	329,092.00
03 20	SEWER - RESIDENTIAL	892	.00		6,244	93,750.00	1501	10,710	83,040.00-
03 21	SEWER - COMMERCIAL	9,023	12,500.00	139	63,161	15,625.00	25	108,284	92,659.00
03 *	IMPACT FEES	172,997	496,300.00	287	1,210,979	1,585,175.00	131	2,075,989	490,814.00
324 **	IMPACT FEES	172,997	496,300.00	287	1,210,979	1,585,175.00	131	2,075,989	490,814.00
320 ***	OTHER PERMITS & FEES	172,997	496,300.00	287	1,210,979	1,585,175.00	131	2,075,989	490,814.00
330	INTERGOVERNMENTAL REVENUE								
331	FEDERAL GRANTS								
50 01	FEMA DISASTER RELIEF	0	78,063.19		0	78,063.19		0	78,063.19-
90 00	OTHER FEDERAL GRANT-BABS	0	.00		0	.00		0	.00
331 **	FEDERAL GRANTS	0	78,063.19		0	78,063.19		0	78,063.19-
334	STATE GRANT								
50 01	STATE DISASTER REIMBURSE	0	13,010.53		0	13,010.53		0	13,010.53-
334 **	STATE GRANT	0	13,010.53		0	13,010.53		0	13,010.53-
337	GRANTS FROM LOCAL UNITS								
30 00	PHYSICAL ENVIRONMENT	0	.00		0	.00		0	.00
30 02	SJRWMD - BRACCO RESERVOIR	0	.00		0	.00		0	.00
30 08	SJRWMD - SUPP SUPPLY WELL	0	.00		0	.00		0	.00
30 *	PHYSICAL ENVIRONMENT	0	.00		0	.00		0	.00
337 **	GRANTS FROM LOCAL UNITS	0	.00		0	.00		0	.00
330 ***	INTERGOVERNMENTAL REVENUE	0	91,073.72		0	91,073.72		0	91,073.72-
340	CHARGES FOR SERVICES								
343	PHYSICAL ENVIRONMENT								
30 10	EARNED NOT BILLED	0	.00		0	.00		0	.00
31 00	WATER SALES	4,061,080	4,242,195.92	105	28,427,560	29,676,300.62	104	48,732,963	19,056,662.38
33 00	WATER CONNECTION FEE	20,000	51,941.02	260	140,000	349,742.99	250	240,000	109,742.99-
33 02	WATER CONNECT - GRISSOM	0	.00		0	.00		0	.00
33 *	WATER CONNECTION FEE	20,000	51,941.02	260	140,000	349,742.99	250	240,000	109,742.99-
36 00	WATER HYDRANT FEES	226,051	274,382.08	121	1,582,357	1,922,104.52	122	2,712,623	790,518.48
39 00	WATER OTHER INCOME	0	.00		0	.00		0	.00

CITY OF COCOA, FLORIDA

FUND 421 WATER/SEWER ENTERPRISE

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
340	CHARGES FOR SERVICES								
343	PHYSICAL ENVIRONMENT								
39 02	FDOT EASEMENT PAYMENT	0	.00		0	.00		0	.00
39 06	HYDRANT RESID FLOW TEST	133	900.00	677	931	4,500.00	483	1,600	2,900.00-
39 07	BACKFLOW DEVICE TEST	12,083	16,030.95	133	84,581	110,791.93	131	145,000	34,208.07
39 08	JUMPER METERS	58	100.00	172	406	600.00	148	700	100.00
39 09	PLAN REVIEW/CONST INSPECT	1,000	3,000.00	300	7,000	23,600.00	337	12,000	11,600.00-
39 10	BACKFLOW PRV/RLCT TEMP	41	5.42	13	287	287.94	100	500	212.06
39 11	PORT ACCESS CHARGE	0	.00		0	.00		0	.00
39 12	CROSS CONNECTION CONTROL	0	.00		0	.00		0	.00
39 *	WATER OTHER INCOME	13,315	20,036.37	151	93,205	139,779.87	150	159,800	20,020.13
51 00	SEWER SALES	449,347	454,307.92	101	3,145,429	3,225,476.49	103	5,392,166	2,166,689.51
51 10	EARNED NOT BILLED	0	.00		0	.00		0	.00
51 *	SEWER SALES	449,347	454,307.92	101	3,145,429	3,225,476.49	103	5,392,166	2,166,689.51
53 02	SEWER CONNECT - FINANCED	0	.00		0	.00		0	.00
53 04	SEWER CONNECT- GRISSOM	0	.00		0	.00		0	.00
53 05	REUSE CONNECT - GRISSOM	0	.00		0	.00		0	.00
53 *	SEWER CONNECTION FEES	0	.00		0	.00		0	.00
59 01	GREASE TRAP PERMITS	516	715.02	139	3,612	5,040.15	140	6,200	1,159.85
60 00	REUSE WATER	29,422	31,432.93	107	205,954	204,606.32	99	353,070	148,463.68
60 01	REUSE WATER INSTALLATION	583	246.62-	42	4,081	19,017.48	466	7,000	12,017.48-
60 10	EARNED NOT BILLED	0	.00		0	.00		0	.00
60 *	REUSE WATER	30,005	31,186.31	104	210,035	223,623.80	107	360,070	136,446.20
90 10	OTHER EARNED NOT BILLED	0	.00		0	.00		0	.00
343 **	PHYSICAL ENVIRONMENT	4,800,314	5,074,764.64	106	33,602,198	35,542,068.44	106	57,603,822	22,061,753.56
340 ***	CHARGES FOR SERVICES	4,800,314	5,074,764.64	106	33,602,198	35,542,068.44	106	57,603,822	22,061,753.56
360	MISCELLANEOUS REVENUES								
361	INTEREST & OTHER EARNINGS								
10 00	INTEREST	13,228	4,244.96	32	92,596	44,811.13	48	158,739	113,927.87
10 10	SBA	0	.00		0	.23		0	.23-
10 *	INTEREST	13,228	4,244.96	32	92,596	44,811.36	48	158,739	113,927.64
20 00	DIVIDENDS	0	.00		0	857.16		0	857.16-
38 00	NET INC/DEC-FMV INVESTMNT	0	.00		0	16,335,171.31-		0	16,335,171.31
40 00	GAIN/LOSS SALE INVEST	0	.00		0	189.60-		0	189.60
40 02	UNREALIZED GAIN/LOSS	0	.00		0	54,618.17		0	54,618.17-
40 *	GAIN/LOSS SALE INVEST	0	.00		0	54,428.57		0	54,428.57-

CITY OF COCOA, FLORIDA

FUND 421 WATER/SEWER ENTERPRISE

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
360		MISCELLANEOUS REVENUES								
361		INTEREST & OTHER EARNINGS								
361	**	INTEREST & OTHER EARNINGS	13,228	4,244.96	32	92,596	16,235,074.22-	7533	158,739	16,393,813.22
362		RENT AND ROYALTIES								
00	00	RENT AND ROYALTIES	108	.00		756	1,300.00	172	1,300	.00
362	**	RENT AND ROYALTIES	108	.00		756	1,300.00	172	1,300	.00
364		DISPOSITION FIXED ASSETS								
00	00	DISPOSITION FIXED ASSETS	1,250	.00		8,750	25,849.35	295	15,000	10,849.35-
10	00	GAIN/LOSS	0	.00		0	12,978.56		0	12,978.56-
364	**	DISPOSITION FIXED ASSETS	1,250	.00		8,750	38,827.91	444	15,000	23,827.91-
365		SALES OF SURPLUS SCRAP								
00	00	SALES OF SURPLUS SCRAP	833	107.00	13	5,831	4,708.20	81	10,000	5,291.80
365	**	SALES OF SURPLUS SCRAP	833	107.00	13	5,831	4,708.20	81	10,000	5,291.80
366		CONTRIBUTIONS & DONATIONS								
00	00	CONTRIBUTIONS & DONATIONS	0	.00		0	.00		0	.00
366	**	CONTRIBUTIONS & DONATIONS	0	.00		0	.00		0	.00
369		OTHER MISC REVENUES								
90	00	OTHER MISC REVENUES	3,333	13,448.48	404	23,331	326,280.96	1399	40,000	286,280.96-
90	06	SETTLEMENTS	0	.00		0	.00		0	.00
90	*	OTHER MISC REVENUES	3,333	13,448.48	404	23,331	326,280.96	1399	40,000	286,280.96-
96	00	INSURANCE REFUND/PROCEEDS	0	.00		0	10,295.50		0	10,295.50-
369	**	OTHER MISC REVENUES	3,333	13,448.48	404	23,331	336,576.46	1443	40,000	296,576.46-
360	***	MISCELLANEOUS REVENUES	18,752	17,800.44	95	131,264	15,853,661.65-	2078	225,039	16,078,700.65
380		OTHER SOURCES(NON-REV)					+ 16,335,171.31			
381		INTERFUND TRANSFER					Accounting timing = 481,509.66			
45	03	OFFSITE IMPROVEMENT TFER	0	.00		0	.00		0	.00
91	01	GENERAL FUND (001)	0	.00		0	.00		0	.00
91	10	TRF FROM COCOA CRA (110)	0	.00		0	.00		0	.00
91	23	STORMWATER (423)	0	.00		0	.00		0	.00
91	25	RESTRICTED ASSETS (425)	0	.00		0	350,456.27		0	350,456.27-
91	26	WS CPTL PROJ 2018B (426)	318,988	.00		1,275,952	.00		2,870,896	2,870,896.00
91	30	CAP PROJECT FUND (301)	0	.00		0	.00		0	.00
91	*	TRANSFER FROM	318,988	.00		1,275,952	350,456.27	28	2,870,896	2,520,439.73

CITY OF COCOA, FLORIDA

FUND 421 WATER/SEWER ENTERPRISE

ACCOUNT	ACCOUNT DESCRIPTION	********** CURRENT ESTIMATED	ACTUAL	%REV	******** YEAR-TO-DATE ESTIMATED	ACTUAL	%REV	ANNUAL ESTIMATE	UNREALIZED BALANCE
380	OTHER SOURCES(NON-REV)								
381	INTERFUND TRANSFER								
381 **	INTERFUND TRANSFER	318,988	.00		1,275,952	350,456.27	28	2,870,896	2,520,439.73
383	INSTLMT PURCH/CAP LEASE								
10 00	INSTALMNT PURC/CAP LEASE	0	.00		0	.00		0	.00
383 **	INSTLMT PURCH/CAP LEASE	0	.00		0	.00		0	.00
389	NON OPERATING SOURCES								
30 00	LOAN PROCEEDS	0	.00		0	.00		0	.00
41 00	S MAINLAND CONTRIBUTIONS	0	.00		0	.00		0	.00
42 00	DER CIA GRANT MONEY	0	.00		0	.00		0	.00
81 00	CONTRIBUTION LIFT STATION	0	14,500.00		0	110,925.00		0	110,925.00-
82 00	CONTRIBUTION S MAINLAND	0	85,702.09		0	141,302.61		0	141,302.61-
83 00	CONTRIBUTION VIERA	0	30,801.03		0	258,807.64		0	258,807.64-
83 01	THE VIERA COMPANY	0	.00		0	.00		0	.00
83 *	CONTRIBUTION VIERA	0	30,801.03		0	258,807.64		0	258,807.64-
85 00	CONTRIBUTIONS-SUBDIVIDERS	0	.00		0	.00		0	.00
99 10	CASH CARRY FORWARD	0	.00		0	.00		0	.00
99 11	RESTR. CASH CARRY FORWARD	0	.00		0	.00		0	.00
99 50	FUND BAL-APPROP. RESERVES	451,056	.00		4,277,240	.00		6,532,539	6,532,539.00
99 51	SERIES 2010 PROCEEDS	0	.00		0	.00		0	.00
99 *	BALANCE FORWARD	451,056	.00		4,277,240	.00		6,532,539	6,532,539.00
389 **	NON OPERATING SOURCES	451,056	131,003.12	29	4,277,240	511,035.25	12	6,532,539	6,021,503.75
380 ***	OTHER SOURCES(NON-REV)	770,044	131,003.12	17	5,553,192	861,491.52 ✓	16	9,403,435 ✓	8,541,943.48
FUND TOTAL	WATER/SEWER ENTERPRISE	5,762,107	5,810,941.92	101	40,497,633	22,226,147.03	55	69,308,285 ✓	47,082,137.97

38,470,245

30,838,040

REPORT SELECTIONS

Fiscal year . . . . . : 2019
Fund . . . . . : 421
All Departments
All Divisions
Suppress accounts with zero balances . . . . : N

FUND 421 WATER/SEWER ENTERPRISE

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	727719	572807.86	79	5113551	4275119.77	84	.00	8752187	4477067.23	49
12-10	SALARY ADJUSTMENTS	0	.00	0	0	.00	0	.00	0	.00	0
12-11	LEAVE INCENTIVE SELL BACK	0	.00	0	0	.00	0	.00	0	.00	0
12-12	ACCRUAL PAYOUTS	1865	201.15	11	1865	11381.69	610	.00	11182	199.69-	102
12 **	REGULAR SALARIES & WAGES	729584	573009.01	79	5115416	4286501.46	84	.00	8763369	4476867.54	49
13-00	OTHER SALARIES & WAGES	46592	39443.51	85	322892	261908.61	81	.00	555883	293974.39	47
13 **	OTHER SALARIES & WAGES	46592	39443.51	85	322892	261908.61	81	.00	555883	293974.39	47
14-00	OVERTIME	40229	38402.00	96	281603	299199.02	106	.00	482784	183584.98	62
14-01	COMP TIME	0	.00	0	0	.00	0	.00	0	.00	0
14 **	OVERTIME	40229	38402.00	96	281603	299199.02	106	.00	482784	183584.98	62
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	1695	600.00	35	10079	18634.23	185	.00	18575	59.23-	100
20 **	CLOTHING/SHOE ALLOWANCE	1695	600.00	35	10079	18634.23	185	.00	18575	59.23-	100
21-00	FICA TAXES	60337	47896.40	79	422359	357637.99	85	.00	724098	366460.01	49
21 **	FICA TAXES	60337	47896.40	79	422359	357637.99	85	.00	724098	366460.01	49
22-00	RETIREMENT CONTRIBUTIONS	111416	59019.62	53	585368	705486.06	121	.00	1142470	436983.94	62
22-01	POLICE/FIRE	0	.00	0	0	.00	0	.00	0	.00	0
22 **	RETIREMENT CONTRIBUTIONS	111416	59019.62	53	585368	705486.06	121	.00	1142470	436983.94	62
23-00	LIFE/HEALTH INSURANCE	215001	159924.66	74	1505007	1084852.79	72	.00	2580051	1495198.21	42
23-02	LIFE/HEALTH RETIREES	19783	8155.54	41	138481	78180.79	57	.00	237406	159225.21	33
23-03	CONTRA CIGNA SAVINGS	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 **	LIFE/HEALTH INSURANCE	234784	168080.20	72	1643488	1163033.58	71	.00	2817457	1654423.42	41
24-00	WORKER'S COMPENSATION	41496	30621.07	74	290472	237914.95	82	.00	497975	260060.05	48

FUND 421 WATER/SEWER ENTERPRISE

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
24 **	WORKER'S COMPENSATION	41496	30621.07	74	290472	237914.95	82	.00	497975	260060.05	48
25-00	UNEMPLOYMENT COMPENSATION	416	.00	0	2912	3025.00	104	.00	5000	1975.00	61
25 **	UNEMPLOYMENT COMPENSATION	416	.00	0	2912	3025.00	104	.00	5000	1975.00	61
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	CAFETERIA PLAN	13477	10900.00	81	90877	72750.00	80	.00	158262	85512.00	46
27 **	CAFETERIA PLAN	13477	10900.00	81	90877	72750.00	80	.00	158262	85512.00	46
31-00	PROFESSIONAL SERVICES	38994	9096.52	23	266731	59758.23	22	150627.54	461724	251338.23	46
31-01	LEGAL EXPENSES	6666	1609.50	24	46662	5920.00	13	19080.00	80000	55000.00	31
31-02	MEDICAL SERVICES	0	.00	0	0	.00	0	.00	0	.00	0
31-03	ENGINEERING SERVICES	45125	73559.24	163	285746	186801.36	65	279810.14	511389	44777.50	91
31-33	EMPLOYEE HEALTH CENTER	10762	10093.01	94	75334	65722.47	87	63427.53	129150	.00	100
31 **	PROFESSIONAL SERVICES	101547	94358.27	93	674473	318202.06	47	512945.21	1182263	351115.73	70
32-00	ACCOUNTING & AUDITING	3333	10000.00	300	23331	40000.00	171	.00	40000	.00	100
32 **	ACCOUNTING & AUDITING	3333	10000.00	300	23331	40000.00	171	.00	40000	.00	100
34-00	CONTRACT SERVICES	112283	38664.59	34	791915	118510.59	15	116878.86	1353375	1117985.55	17
34-09	MOWING CONTRACTS	0	.00	0	0	.00	0	.00	0	.00	0
34-10	COST OF GENERAL FUND SVCS	475140	475141.00	100	3325980	3325987.00	100	.00	5701690	2375703.00	58
34 **	CONTRACT SERVICES	587423	513805.59	88	4117895	3444497.59	84	116878.86	7055065	3493688.55	51
39-00	CONTINGENCY	2860	.00	0	668733	.00	0	.00	683054	683054.00	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	2860	.00	0	668733	.00	0	.00	683054	683054.00	0
40-00	TRAVEL AND PER DIEM	2583	4195.85	162	18081	5498.25	30	.00	31041	25542.75	18
40-01	CAR ALLOWANCE	0	.00	0	0	.00	0	.00	0	.00	0

FUND 421 WATER/SEWER ENTERPRISE

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
40 **	TRAVEL AND PER DIEM	2583	4195.85	162	18081	5498.25	30	.00	31041	25542.75	18
41-00	COMMUNICATION	9979	9869.45	99	69853	64246.70	92	51710.24	119773	3816.06	97
41 **	COMMUNICATION	9979	9869.45	99	69853	64246.70	92	51710.24	119773	3816.06	97
42-00	FREIGHT & POSTAGE SERVICE	3192	7390.39	232	22154	19733.24	89	7500.48	38149	10915.28	71
42 **	FREIGHT & POSTAGE SERVICE	3192	7390.39	232	22154	19733.24	89	7500.48	38149	10915.28	71
43-00	ELECTRIC/WATER/SEWER	188983	150033.08	79	1322881	840388.44	64	1394580.20	2267816	32847.36	99
43 **	ELECTRIC/WATER/SEWER	188983	150033.08	79	1322881	840388.44	64	1394580.20	2267816	32847.36	99
44-00	RENTAL AND LEASES	2744	9968.18	363	19208	16279.18	85	2000.00	32950	14670.82	56
44 **	RENTAL AND LEASES	2744	9968.18	363	19208	16279.18	85	2000.00	32950	14670.82	56
45-00	INSURANCE	35632	103328.69	290	249424	319203.21	128	.00	427618	108414.79	75
45 **	INSURANCE	35632	103328.69	290	249424	319203.21	128	.00	427618	108414.79	75
46-00	REPAIRS & MAINTENANCE	659824	734572.16	111	4152932	3485437.41	84	2296621.55	7452092	1670033.04	78
46-02	REPAIR/MAINT BUILDING	35518	8658.00	24	248626	49172.90	20	650.00	426233	376410.10	12
46-03	REPAIR/MAINT-VEHICLES	16330	37045.54	227	111148	114097.27	103	9500.26-	192842	88244.99	54
46-15	INSURED VEHICLE ACCIDENT	0	.00	0	0	.00	0	.00	0	.00	0
46 **	REPAIRS & MAINTENANCE	711672	780275.70	110	4512706	3648707.58	81	2287771.29	8071167	2134688.13	74
47-00	PRINTING & BINDING	605	.00	0	4221	428.00	10	3096.33	7280	3755.67	48
47 **	PRINTING & BINDING	605	.00	0	4221	428.00	10	3096.33	7280	3755.67	48
48-00	PROMOTIONAL ACTIVITIES	1666	1203.46	72	11662	3903.46	34	.00	20000	16096.54	20
48 **	PROMOTIONAL ACTIVITIES	1666	1203.46	72	11662	3903.46	34	.00	20000	16096.54	20
49-00	OTHER CHARGES & OBLIG.	3309	6243.93	189	23163	16141.05	70	750.00	39755	22863.95	43
49-02	ADVERTISING	0	.00	0	0	.00	0	.00	0	.00	0
49-07	BAD DEBT EXPENSE	14583	4545.84-	31-	102081	42382.02-	42-	.00	175000	217382.02	24-
49-08	CASH OVER & UNDER	25	81.16	325	175	220.02	126	.00	300	79.98	73
49-09	DOCUMENT RECORDING CHGS	250	320.00-	128-	1750	494.60-	28-	.00	3000	3494.60	17-

FUND 421 WATER/SEWER ENTERPRISE

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
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 **	OTHER CHARGES & OBLIG.	18167	1459.25	8	127169	26515.55-	21-	750.00	218055	243820.55	12-
51-00	OFFICE SUPPLIES	0	.00	0	0	.00	0	.00	0	.00	0
51 **	OFFICE SUPPLIES	0	.00	0	0	.00	0	.00	0	.00	0
52-00	OPERATING SUPPLIES	62027	76646.85	124	420145	507389.12	121	73888.75	730294	149016.13	80
52-07	JANITORIAL SUPPLIES	852	489.58	58	5964	3148.29	53	.00	10240	7091.71	31
52-09	CHEMICALS	323863	389113.84	120	2267041	1741882.72	77	2067576.41	3886360	76900.87	98
52-30	FUEL OIL & LUBRICANTS	26611	25513.47	96	186277	141367.61	76	46300.05	319370	131702.34	59
52-33	EMPLOYEE HEALTH CENTER	5466	4496.41	82	38262	24486.90	64	41113.10	65600	.00	100
52 **	OPERATING SUPPLIES	418819	496260.15	119	2917689	2418274.64	83	2228878.31	5011864	364711.05	93
53-00	ROAD MATERIALS/SUPPLIES	3748	839.76	22	26236	4042.41	15	34160.24	45000	6797.35	85
53 **	ROAD MATERIALS/SUPPLIES	3748	839.76	22	26236	4042.41	15	34160.24	45000	6797.35	85
54-00	MEMBERSHIP/PUBLICATIONS	3083	202.00	7	21581	31718.45	147	.00	37026	5307.55	86
54 **	MEMBERSHIP/PUBLICATIONS	3083	202.00	7	21581	31718.45	147	.00	37026	5307.55	86
55-00	TRAINING	11028	4556.95	41	73310	41363.21	56	16680.00	128493	70449.79	45
55-01	EDA PROGRAM	625	.00	0	4375	.00	0	.00	7500	7500.00	0
55 **	TRAINING	11653	4556.95	39	77685	41363.21	53	16680.00	135993	77949.79	43
56-15	IT-RELATED OPERATING EXP	0	.00	0	0	.00	0	.00	0	.00	0
56 **	TECHNOLOGY SYSTEMS	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	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	5416	.00	0	37912	.00	0	.00	65000	65000.00	0

FUND 421 WATER/SEWER ENTERPRISE

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE****** BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
62 **	BUILDINGS	5416	.00	0	37912	.00	0	.00	65000	65000.00	0
63-00	INFRASTRUCTURE	652045	280249.67	43	4726218	586711.80	12	4390422.54	7986469	3009334.66	62
63 **	INFRASTRUCTURE	652045	280249.67	43	4726218	586711.80	12	4390422.54	7986469	3009334.66	62
64-00	MACHINERY & EQUIPMENT	63795	128029.75	201	491105	335569.74	68	424908.00	810117	49639.26	94
64-15	IT HARDWARE	419	.00	0	7874	.00	0	.00	10000	10000.00	0
64 **	MACHINERY & EQUIPMENT	64214	128029.75	199	498979	335569.74	67	424908.00	820117	59639.26	93
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	23789	.00	0	164752	4030.94	2	183996.15	283698	95670.91	66
68 **	INTANGIBLE ASSETS	23789	.00	0	164752	4030.94	2	183996.15	283698	95670.91	66
69-99	PROPRIETARY FUNDS ONLY	0	.00	0	0	.00	0	.00	0	.00	0
69 **	CONTRA FIXED ASSET	0	.00	0	0	.00	0	.00	0	.00	0
73-00	OTHER DEBT SERVICE COST	0	.00	0	0	463083.25	0	.00	0	463083.25-	0
73 **	OTHER DEBT SERVICE COST	0	.00	0	0	463083.25	0	.00	0	463083.25-	0
82-00	AID TO PRIVATE ORGANIZAT	83	.00	0	581	.00	0	.00	1000	1000.00	0
82-01	ECON DEV INCENTIVE CONTR	0	.00	0	0	.00	0	.00	0	.00	0
82 **	AID TO PRIVATE ORGANIZAT	83	.00	0	581	.00	0	.00	1000	1000.00	0
91-01	TRANSFER TO GEN FUND 001	590999	590999.00	100	4136993	4136993.00	100	.00	7091990	2954997.00	58
91-23	TO STORMWATER 423	0	.00	0	0	.00	0	.00	0	.00	0
91-25	TO RESTRICTED ASSET 425	930092	.00	0	6527456	9040046.01	139	.00	11177915	2137868.99	81
91-26	WS CPTL PROJ 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	GF CAPITAL PROJECTS 301	0	.00	0	0	.00	0	.00	0	.00	0
91-52	SELF INSURANCE FUND 520	0	.00	0	0	.00	0	.00	0	.00	0
91-53	HEALTH INSURANCE FUND 530	0	.00	0	0	.00	0	.00	0	.00	0

FUND 421 WATER/SEWER ENTERPRISE

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE****** BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
91 **	INTERFUND TRANSFER	1521091	590999.00	39	10664449	13177039.01	124	.00	18269905	5092865.99	72
95-01	6% ILO FRANCHISE FEE	107675	107676.00	100	753725	753732.00	100	.00	1292109	538377.00	58
95 **	NONOPERATING	107675	107676.00	100	753725	753732.00	100	.00	1292109	538377.00	58
FUND 421	TOTAL *********										
	WATER/SEWER ENTERPRISE	5762028	4262673.00	74	40497064	33916228.51	84	11656277.85	69308285	23735778.64	66
GRAND	TOTAL *********										
		5762028	4262673.00	74	40497064	33916228.51	84	11656277.85	69308285	23735778.64	66

FY 2019 Budget by Classification Report - Summary Listing

4/30/2019

Target for April 2019 is 58%

FUND 423 - STORMWATER FUND

	Amended Budget	YTD Encumbrances	YTD Actual Transactions	Budget - YTD Transactions	% Used/Rec'd
REVENUE					
CHARGES FOR SERVICES	$ 1,479,710		$ 1,007,461	$ 472,249	68%
MISCELLANEOUS	$ 23,856		$ 2,036	$ 21,820	9%
OTHER SOURCES (NON-REVENUE)	$ 323,784		$ -	$ 323,784	0%
REVENUE TOTALS	**$ 1,827,350**	**-**	**$ 1,009,497**	**$ 817,853**	**55%**
EXPENSE					
SALARIES AND BENEFITS	$ 709,711	$ -	$ 358,773	$ 350,938	51%
OPERATING EXPENDITURES	$ 490,678	$ 144,341	$ 176,939	$ 169,398	65%
CAPITAL OUTLAY	$ 626,961	$ 3,703	$ 1,808	$ 621,450	1%
OTHER SOURCES (NON-REVENUE)	$ -	$ -	$ -	$ -	
EXPENSE TOTALS	**$ 1,827,350**	**$ 148,044**	**$ 537,520**	**$ 1,141,786**	**38%**
REVENUE TOTALS	**$ 1,827,350**	**$ -**	**$ 1,009,497**	**$ 817,853**	**55%**
EXPENSE TOTALS	**$ 1,827,350**	**$ 148,044**	**$ 537,520**	**$ 1,141,786**	**38%**
	$ -	**$ (148,044)**	**$ 471,977**	**$ (323,933)**	

CITY OF COCOA, FLORIDA

FUND 423 STORMWATER UTILITY

ACCOUNT		ACCOUNT DESCRIPTION	CURRENT ESTIMATED	CURRENT ACTUAL	%REV	YEAR-TO-DATE ESTIMATED	YEAR-TO-DATE ACTUAL	%REV	ANNUAL ESTIMATE	UNREALIZED BALANCE
330		INTERGOVERNMENTAL REVENUE								
331		FEDERAL GRANTS								
39	10	FED GRANT -TRANSPORTATION	0	.00		0	.00		0	.00
50	01	FEMA DISASTER RELIEF	0	.00		0	.00		0	.00
331	**	FEDERAL GRANTS	0	.00		0	.00		0	.00
337		GRANTS FROM LOCAL UNITS								
30	00	PHYSICAL ENVIRONMENT	0	.00		0	.00		0	.00
337	**	GRANTS FROM LOCAL UNITS	0	.00		0	.00		0	.00
338		SHARED REVENUE LOCAL UNIT								
10	02	CHURCH STREET BAFFLE BOX	1,738	.00		12,166	.00		20,856	20,856.00
338	**	SHARED REVENUE LOCAL UNIT	1,738	.00		12,166	.00		20,856	20,856.00
330	***	INTERGOVERNMENTAL REVENUE	1,738	.00		12,166	.00		20,856	20,856.00
340		CHARGES FOR SERVICES								
343		PHYSICAL ENVIRONMENT								
39	05	NSF CHECKS	0	.00		0	.00		0	.00
91	00	STORMWATER FEES	123,309	144,761.45	117	863,163	1,007,460.68	117	1,479,710	472,249.32
91	10	EARNED NOT BILLED	0	.00		0	.00		0	.00
91	*	STORMWATER FEES	123,309	144,761.45	117	863,163	1,007,460.68	117	1,479,710	472,249.32
343	**	PHYSICAL ENVIRONMENT	123,309	144,761.45	117	863,163	1,007,460.68	117	1,479,710	472,249.32
340	***	CHARGES FOR SERVICES	123,309	144,761.45	117	863,163	1,007,460.68	117	1,479,710	472,249.32
360		MISCELLANEOUS REVENUES								
361		INTEREST & OTHER EARNINGS								
10	00	INTEREST	250	300.72	120	1,750	1,197.32	68	3,000	1,802.68
10	10	SBA	0	.00		0	.00		0	.00
10	*	INTEREST	250	300.72	120	1,750	1,197.32	68	3,000	1,802.68
20	00	DIVIDENDS	0	.00		0	39.14		0	39.14-
38	00	NET INC/DEC-FMV INVESTMNT	0	.00		0	193,463.82-		0	193,463.82
40	00	GAIN/LOSS SALE INVEST	0	.00		0	3.36-		0	3.36
40	02	UNREALIZED GAIN/LOSS	0	.00		0	802.75		0	802.75-
40	*	GAIN/LOSS SALE INVEST	0	.00		0	799.39		0	799.39-
361	**	INTEREST & OTHER EARNINGS	250	300.72	120	1,750	191,427.97-	939	3,000	194,427.97

FUND 423 STORMWATER UTILITY

ACCOUNT	ACCOUNT DESCRIPTION	********** CURRENT ESTIMATED	ACTUAL	%REV	******** YEAR-TO-DATE ESTIMATED	ACTUAL	%REV	ANNUAL ESTIMATE	UNREALIZED BALANCE
360	MISCELLANEOUS REVENUES								
361	INTEREST & OTHER EARNINGS								
364	DISPOSITION FIXED ASSETS								
00 00	DISPOSITION FIXED ASSETS	0	.00		0	.00		0	.00
364 **	DISPOSITION FIXED ASSETS	0	.00		0	.00		0	.00
365	SALES OF SURPLUS SCRAP								
00 00	SALES OF SURPLUS SCRAP	0	.00		0	.00		0	.00
365 **	SALES OF SURPLUS SCRAP	0	.00		0	.00		0	.00
369	OTHER MISC REVENUES								
90 00	OTHER MISC REVENUES	0	.00		0	.00		0	.00
369 **	OTHER MISC REVENUES	0	.00		0	.00		0	.00
360 ***	MISCELLANEOUS REVENUES	250	300.72	120	1,750	191,427.97-	939	3,000	194,427.97
380	OTHER SOURCES(NON-REV)								
381	INTERFUND TRANSFER								
91 01	GENERAL FUND (001)	19,405	.00		135,835	.00		232,864	232,864.00
91 21	WATER SEWER FUND (421)	0	.00		0	.00		0	.00
91 *	TRANSFER FROM	19,405	.00		135,835	.00		232,864	232,864.00
381 **	INTERFUND TRANSFER	19,405	.00		135,835	.00		232,864	232,864.00
389	NON OPERATING SOURCES								
85 00	CONTRIBUTIONS-SUBDIVIDERS	0	.00		0	.00		0	.00
90 00	NON OPERATING SOURCES	0	.00		0	.00		0	.00
99 10	CASH CARRY FORWARD	0	.00		0	.00		0	.00
99 50	FUND BAL-APPROP. RESERVES	10,433	.00		38,760	.00		90,920	90,920.00
99 *	BALANCE FORWARD	10,433	.00		38,760	.00		90,920	90,920.00
389 **	NON OPERATING SOURCES	10,433	.00		38,760	.00		90,920	90,920.00
380 ***	OTHER SOURCES(NON-REV)	29,838	.00		174,595	.00		323,784	323,784.00
FUND TOTAL	STORMWATER UTILITY	155,135	145,062.17	94	1,051,674	816,032.71	78	1,827,350	1,011,317.29

191,427.97 - 2,035.85 Accounting Timing

816,032.71 + 100,496.53

1,011,317.29 - 817.853

REPORT SELECTIONS

Fiscal year . . . . . : 2019
Fund . . . . . : 423
All Departments
All Divisions
Suppress accounts with zero balances . . . . : N

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	33154	27697.43	84	232078	209273.59	90	.00	397853	188579.41	53
12-10	SALARY ADJUSTMENTS	0	.00	0	0	.00	0	.00	0	.00	0
12-11	LEAVE INCENTIVE SELL BACK	0	.00	0	0	.00	0	.00	0	.00	0
12-12	ACCRUAL PAYOUTS	0	.00	0	0	.00	0	.00	0	.00	0
12 **	REGULAR SALARIES & WAGES	33154	27697.43	84	232078	209273.59	90	.00	397853	188579.41	53
13-00	OTHER SALARIES & WAGES	3674	3354.20	91	25718	24317.98	95	.00	44089	19771.02	55
13 **	OTHER SALARIES & WAGES	3674	3354.20	91	25718	24317.98	95	.00	44089	19771.02	55
14-00	OVERTIME	416	481.27	116	2912	2463.84	85	.00	5000	2536.16	49
14-01	COMP TIME	0	.00	0	0	.00	0	.00	0	.00	0
14 **	OVERTIME	416	481.27	116	2912	2463.84	85	.00	5000	2536.16	49
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	45	.00	0	315	240.00	76	.00	550	310.00	44
20 **	CLOTHING/SHOE ALLOWANCE	45	.00	0	315	240.00	76	.00	550	310.00	44
21-00	FICA TAXES	2710	2368.34	87	18520	17334.59	94	.00	32076	14741.41	54
21 **	FICA TAXES	2710	2368.34	87	18520	17334.59	94	.00	32076	14741.41	54
22-00	RETIREMENT CONTRIBUTIONS	3483	2950.32	85	24381	21982.86	90	.00	41798	19815.14	53
22-01	POLICE/FIRE	0	.00	0	0	.00	0	.00	0	.00	0
22 **	RETIREMENT CONTRIBUTIONS	3483	2950.32	85	24381	21982.86	90	.00	41798	19815.14	53
23-00	LIFE/HEALTH INSURANCE	10071	7067.73	70	70497	50673.98	72	.00	120858	70184.02	42
23-03	CONTRA CIGNA SAVINGS	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 **	LIFE/HEALTH INSURANCE	10071	7067.73	70	70497	50673.98	72	.00	120858	70184.02	42
24-00	WORKER'S COMPENSATION	4833	3503.07	73	33831	27646.24	82	.00	58003	30356.76	48
24 **	WORKER'S COMPENSATION	4833	3503.07	73	33831	27646.24	82	.00	58003	30356.76	48

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
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	CAFETERIA PLAN	941	730.00	78	4781	4840.00	101	.00	9484	4644.00	51
27 **	CAFETERIA PLAN	941	730.00	78	4781	4840.00	101	.00	9484	4644.00	51
31-00	PROFESSIONAL SERVICES	20387	21908.00	108	109499	41760.00	38	114421.00	211441	55260.00	74
31-01	LEGAL EXPENSES	41	.00	0	287	.00	0	.00	500	500.00	0
31-33	EMPLOYEE HEALTH CENTER	525	492.34	94	3675	3206.00	87	3094.00	6300	.00	100
31 **	PROFESSIONAL SERVICES	20953	22400.34	107	113461	44966.00	40	117515.00	218241	55760.00	75
34-00	CONTRACT SERVICES	600	.00	0	4200	799.76	19	4200.24	7200	2200.00	69
34-10	COST OF GENERAL FUND SVCS	7861	7862.00	100	55027	55034.00	100	.00	94343	39309.00	58
34 **	CONTRACT SERVICES	8461	7862.00	93	59227	55833.76	94	4200.24	101543	41509.00	59
39-00	CONTINGENCY	180	.00	0	3510	.00	0	.00	4415	4415.00	0
39 **	CONTINGENCY	180	.00	0	3510	.00	0	.00	4415	4415.00	0
40-00	TRAVEL & PER DIEM	400	620.00	155	2800	1311.64	47	.00	4800	3488.36	27
40 **	TRAVEL & PER DIEM	400	620.00	155	2800	1311.64	47	.00	4800	3488.36	27
41-00	COMMUNICATION	102	89.92	88	714	529.58	74	694.42	1224	.00	100
41 **	COMMUNICATION	102	89.92	88	714	529.58	74	694.42	1224	.00	100
42-00	POSTAGE & FREIGHT	62	25.00	40	434	110.00	25	75.00	750	565.00	25
42 **	POSTAGE & FREIGHT	62	25.00	40	434	110.00	25	75.00	750	565.00	25
43-00	ELECTRIC/WATER/SEWER	1492	1101.06	74	9988	6170.74	62	11486.61	17456	201.35-	101
43 **	ELECTRIC/WATER/SEWER	1492	1101.06	74	9988	6170.74	62	11486.61	17456	201.35-	101
44-00	RENTALS AND LEASES	416	.00	0	2912	.00	0	.00	5000	5000.00	0
44 **	RENTALS AND LEASES	416	.00	0	2912	.00	0	.00	5000	5000.00	0
45-00	INSURANCE	412	2117.89	514	2884	6372.74	221	.00	4954	1418.74-	129
45 **	INSURANCE	412	2117.89	514	2884	6372.74	221	.00	4954	1418.74-	129

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
46-00	REPAIRS & MAINTENANCE	3049	4374.77	144	21799	11803.73	54	719.39	37044	24520.88	34
46-02	REPAIR/MAINT BUILDING	0	.00	0	0	.00	0	.00	0	.00	0
46-03	REPAIR/MAINT-VEHICLES	3025	12791.12	423	20747	31496.42	152	9.99-	35873	4386.57	88
46-15	INSURED VEHICLE ACCIDENT	0	.00	0	0	.00	0	.00	0	.00	0
46 **	REPAIRS & MAINTENANCE	6074	17165.89	283	42546	43300.15	102	709.40	72917	28907.45	60
47-00	PRINTING & BINDING	83	.00	0	581	571.21	98	.00	1000	428.79	57
47 **	PRINTING & BINDING	83	.00	0	581	571.21	98	.00	1000	428.79	57
49-00	OTHER CHARGES & OBLIG.	208	.00	0	1456	516.67	36	.00	2500	1983.33	21
49-07	BAD DEBT EXPENSE	833	134.80-	16-	5831	1816.43-	31-	.00	10000	11816.43	18-
49-15	OBSOLETE INVENTORY	0	.00	0	0	.00	0	.00	0	.00	0
49 **	OTHER CHARGES & OBLIG.	1041	134.80-	13-	7287	1299.76-	18-	.00	12500	13799.76	10-
51-00	OFFICE SUPPLIES	0	.00	0	0	.00	0	.00	0	.00	0
51 **	OFFICE SUPPLIES	0	.00	0	0	.00	0	.00	0	.00	0
52-00	OPERATING SUPPLIES	1178	713.18	61	8246	5276.10	64	7645.29	14144	1222.61	91
52-07	JANITORIAL SUPPLIES	0	.00	0	0	.00	0	.00	0	.00	0
52-30	FUEL OIL & LUBRICANTS	1911	1971.69	103	13377	10410.26	78	.00	22934	12523.74	45
52-33	EMPLOYEE HEALTH CENTER	266	219.36	83	1862	1185.16	64	2014.84	3200	.00	100
52 **	OPERATING SUPPLIES	3355	2904.23	87	23485	16871.52	72	9660.13	40278	13746.35	66
53-00	ROAD MATERIALS/SUPPLIES	0	.00	0	0	.00	0	.00	0	.00	0
53 **	ROAD MATERIALS/SUPPLIES	0	.00	0	0	.00	0	.00	0	.00	0
54-00	MEMBERSHIP/PUBLICATIONS	91	.00	0	637	650.00	102	.00	1100	450.00	59
54 **	MEMBERSHIP/PUBLICATIONS	91	.00	0	637	650.00	102	.00	1100	450.00	59
55-00	TRAINING	375	889.00	237	2625	1551.00	59	.00	4500	2949.00	35
55 **	TRAINING	375	889.00	237	2625	1551.00	59	.00	4500	2949.00	35
56-15	IT-RELATED OPERATING EXP	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
56 **	TECHNOLOGY SYSTEMS	0	.00	0	0	.00	0	.00	0	.00	0
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	52299	1808.00	4	365460	1808.00	1	3702.94	626961	621450.06	1
63 **	INFRASTRUCTURE	52299	1808.00	4	365460	1808.00	1	3702.94	626961	621450.06	1
64-00	MACHINERY & EQUIPMENT	0	.00	0	0	.00	0	.00	0	.00	0
64-15	IT HARDWARE	0	.00	0	0	.00	0	.00	0	.00	0
64 **	MACHINERY & EQUIPMENT	0	.00	0	0	.00	0	.00	0	.00	0
69-99	PROPRIETARY FUND	0	.00	0	0	.00	0	.00	0	.00	0
69 **	CONTRA FIXED ASSET	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
91-01	TRANSFER TO GEN FUND 001	0	.00	0	0	.00	0	.00	0	.00	0
91-21	WATER SEWER 421	0	.00	0	0	.00	0	.00	0	.00	0
91-30	GF CAPITAL PROJECTS 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	155123	105000.89	68	1051584	537519.66	51	148043.74	1827350	1141786.60	38
GRAND	TOTAL *********	155123	105000.89	68	1051584	537519.66	51	148043.74	1827350	1141786.60	38

FY 2019 Budget by Classification Report - Summary Listing

4/30/2019

Target for April 2019 is 58%

FUND 426 - WATER/SEWER CAPITAL PROJECTS 2018B

	Amended Budget	YTD Encumbrances	YTD Actual Transactions	Budget - YTD Transactions	% Used/Rec'd
REVENUE					
MISCELLANEOUS (INTEREST)	$ -	$ -	$ 64,799	$ (64,799)	100%
OTHER SOURCES (NON-REVENUE)	$ 26,717,181		$ 41,472,377	$ (14,755,196)	155%
REVENUE TOTALS	**$ 26,717,181**	**$ -**	**$ 41,537,176**	**$ (14,819,995)**	**155%**
EXPENSE					
CAPITAL OUTLAY	$ 26,717,181	$ 1,113,850	$ 1,317,879	$ 24,285,452	9%
EXPENSE TOTALS	**$ 26,717,181**	**$ 1,113,850**	**$ 1,317,879**	**$ 24,285,452**	**9%**
REVENUE TOTALS	**$ 26,717,181**	**$ -**	**$ 41,537,176**	**$ (14,819,995)**	**155%**
EXPENSE TOTALS	**$ 26,717,181**	**$ 1,113,850**	**$ 1,317,879**	**$ 24,285,452**	**9%**
	$ -	$ (1,113,850)	$ 40,219,297	$ (39,105,447)	

CITY OF COCOA, FLORIDA

FUND 426 WS CPTL PROJ 2018B

ACCOUNT	ACCOUNT DESCRIPTION	CURRENT ESTIMATED	CURRENT ACTUAL	%REV	YEAR-TO-DATE ESTIMATED	YEAR-TO-DATE ACTUAL	%REV	ANNUAL ESTIMATE	UNREALIZED BALANCE
360	MISCELLANEOUS REVENUES								
361	INTEREST & OTHER EARNINGS								
10 00	INTEREST	0	3,001.65		0	64,798.70		0	64,798.70-
38 00	NET INC/DEC-FMV INVESTMNT	0	.00		0	.00		0	.00
40 00	GAIN/LOSS SALE INVEST	0	.00		0	.00		0	.00
40 02	UNREALIZED GAIN/LOSS	0	.00		0	.00		0	.00
40 *	GAIN/LOSS SALE INVEST	0	.00		0	.00		0	.00
361 **	INTEREST & OTHER EARNINGS	0	3,001.65		0	64,798.70		0	64,798.70-
360 ***	MISCELLANEOUS REVENUES	0	3,001.65		0	64,798.70		0	64,798.70-
380	OTHER SOURCES(NON-REV)								
381	INTERFUND TRANSFER								
91 21	WATER SEWER FUND (421)	0	.00		0	.00		0	.00
91 25	RESTRICTED ASSETS (425)	0	.00		0	41,472,377.00		0	41,472,377.00-
91 *	TRANSFER FROM	0	.00		0	41,472,377.00		0	41,472,377.00-
381 **	INTERFUND TRANSFER	0	.00		0	41,472,377.00		0	41,472,377.00-
384	DEBT PROCEEDS								
00 00	DEBT PROCEEDS	0	.00		0	.00		0	.00
384 **	DEBT PROCEEDS	0	.00		0	.00		0	.00
389	NON OPERATING SOURCES								
99 11	RESTR. CASH CARRY FORWARD	0	.00		0	.00		0	.00
99 50	FUND BAL-APPROP. RESERVES	2,390,175	.00		14,766,315	.00		26,717,181	26,717,181.00
99 *	BALANCE FORWARD	2,390,175	.00		14,766,315	.00		26,717,181	26,717,181.00
389 **	NON OPERATING SOURCES	2,390,175	.00		14,766,315	.00		26,717,181	26,717,181.00
380 ***	OTHER SOURCES(NON-REV)	2,390,175	.00		14,766,315	41,472,377.00	281	26,717,181	14,755,196.00-
FUND TOTAL	WS CPTL PROJ 2018B	2,390,175	3,001.65		14,766,315	41,537,175.70	281	26,717,181	14,819,994.70-

REPORT SELECTIONS

Fiscal year . . . . . : 2019
Fund . . . . . : 426
All Departments
All Divisions
Suppress accounts with zero balances . . . . : N

FUND 426 WS CPTL PROJ 2018B

ELE OBJ	ACCOUNT DESCRIPTION	******MONTH-TO-DATE******* BUDGET	ACTUAL	%EXP	**********YEAR-TO-DATE******* BUDGET	ACTUAL	%EXP	ENCUMBR.	ANNUAL BUDGET	UNENCUMB. BALANCE	% BDGT
56-15	IT-RELATED OPERATING EXP	0	.00	0	0	.00	0	.00	0	.00	0
56 **	TECHNOLOGY SYSTEMS	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	0	.00	0	0	.00	0	.00	0	.00	0
62 **	BUILDINGS	0	.00	0	0	.00	0	.00	0	.00	0
63-00	INFRASTRUCTURE	2071186	121433.61	6	13490359	1317879.19	10	1113849.67	23846285	21414556.14	10
63 **	INFRASTRUCTURE	2071186	121433.61	6	13490359	1317879.19	10	1113849.67	23846285	21414556.14	10
64-00	MACHINERY & EQUIPMENT	0	.00	0	0	.00	0	.00	0	.00	0
64-15	IT HARDWARE	0	.00	0	0	.00	0	.00	0	.00	0
64 **	MACHINERY & EQUIPMENT	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
91-21	WATER SEWER 421	318988	.00	0	1275952	.00	0	.00	2870896	2870896.00	0
91 **	INTERFUND TRANSFER	318988	.00	0	1275952	.00	0	.00	2870896	2870896.00	0
FUND 426	TOTAL *********										
	WS CPTL PROJ 2018B	2390174	121433.61	5	14766311	1317879.19	9	1113849.67	26717181	24285452.14	9
GRAND	TOTAL *********										
		2390174	121433.61	5	14766311	1317879.19	9	1113849.67	26717181	24285452.14	9