



**COCOA REDEVELOPMENT AGENCY BOARD
SPECIAL MEETING AGENDA**

DATE: Tuesday, February 9, 2016
TIME: 5:00 p.m.

LOCATION: Cocoa City Hall
65 Stone Street

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- I. **CALL TO ORDER**
ROLL CALL
INVOCATION
PLEDGE OF ALLEGIANCE
 - II. **APPROVAL OF AGENDA**
AGENDA: Special Meeting of February 9, 2016
 - III. **DELEGATIONS**
 - IV. **PRESENTATIONS**
 - V. **NEW BUSINESS**
 1. City of Cocoa – Cocoa Community Redevelopment Agency Interlocal Agreement – Florida Avenue Streetscape Project
 - VI. **ATTORNEY'S REPORT**
 - VII. **AGENCY MEMBERS AND STAFF REPORTS**
 - VIII. **NEXT MEETING DATE**

The next regularly scheduled meeting of the Cocoa Redevelopment Agency will be on Tuesday, March 1, 2016 at 5:00 PM at the Cocoa City Hall, 65 Stone Street, Cocoa Florida.
 - IX. **ADJOURNMENT**

NOTICE TO THE PUBLIC:

This is a public meeting. All interested parties may attend. The facility wherein this meeting will be held is accessible to the physically handicapped. Please be advised that more than one member of the City Council may attend. Pursuant to Section 286.0105, *Florida Statutes*, the City hereby advises the public that: if a person decides to appeal any decision made by this board with respect to any matter considered at its meeting or hearing, that person will need a record of the proceedings and for such purpose, affected persons may need to insure that a verbatim record of the proceedings is made, and such record shall include the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission into evidence of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals otherwise allowed by law. This agenda is posted on the Municipal Bulletin Board and at the Central Brevard Library and Reference Center in Cocoa for public review.



AGENDA ITEM V-1

City of Cocoa – Cocoa Community Redevelopment Agency Interlocal Agreement –
Florida Avenue Streetscape Project

MEMO DATE: February 2, 2016
AGENDA DATE: February 9, 2016
PREPARED BY: Susan D. McGrady, CRA Program Manager

REQUESTED ACTION:

Approve the Interlocal Agreement between the City of Cocoa (City) and the Cocoa Community Redevelopment Agency (CRA) for the Florida Avenue Streetscape Project.

BACKGROUND

At the Cocoa City Council meeting held on January 26, 2016 Council approved the Florida Department of Transportation Complete Street Local Program Funding Agreement for the Florida Avenue Complete Street Construction Project.

The CRA began initial design and engineering of the Florida Avenue Streetscape Project in 2009 based on recommendations in the Cocoa CRA Waterfront Master Plan. Due to budget constraints, the Project was put on hold in 2011. In 2013 the Space Coast Transportation and Planning Organization (SCTPO) announced a “Complete Street” Funding Assistance Program. Through the SCTPO the City was awarded \$913,000.00 in construction funds for Fiscal Year 2016 for Florida Avenue, from State Road 520 to the southern-most City limits.

The Construction Project will be completed in coordination with stormwater and water main improvements by the City of Cocoa Public Works and Utilities Departments. It is anticipated that this coordination of City Departments and the CRA will allow for a significant cost savings in bulk costs as well as lessening of inconvenience for residents, business owners and visitors.

The CRA has a line item allocation of \$210,000 for this Project in the Fiscal Year 2016 budget.

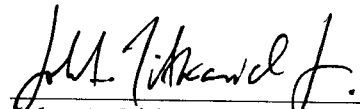
BUDGETARY IMPACT

The Infrastructure Account (110-3230-559.63-00) currently has a balance of \$847,386.00. An allocation of \$210,000.00 will leave an unencumbered balance of \$637,386.00.

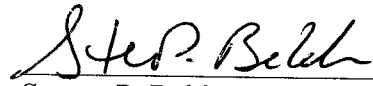
REVIEWED

The City Manager, Community Services Director and Deputy Community Services Director have reviewed this agenda item.

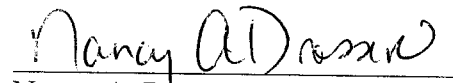
City Manager


John A. Titkanich, Jr., AICP

Community Services Director


Steven P. Belden, AICP

Deputy Community Services Director


Nancy A. Dresser

REQUESTED MOTION

Approve the Interlocal Agreement between the City of Cocoa (City) and the Cocoa Community Redevelopment Agency (CRA) for the Florida Avenue Streetscape Project.

Prepared by:

Anthony A. Garganese
City Attorney of Cocoa
111 N. Orange Avenue, Suite 2000
Orlando, Florida 32802
(407) 425-9566

DRAFT 1/26/2016

Return to:

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

INTERLOCAL AGREEMENT

(Florida Avenue Streetscape Project)

THIS INTERLOCAL AGREEMENT (“Agreement”) is made and entered into this _____ day of February, 2016 (“Effective Date”) between the **CITY OF COCOA REDEVELOPMENT AGENCY**, a Florida Community Redevelopment Agency (“Agency”), and the **CITY OF COCOA**, Florida, a Florida municipal corporation (“City”).

W I T N E S S E T H:

WHEREAS, the City has jurisdictional and ownership control over Florida Avenue which is a local street located within the jurisdictional limits of the city of Cocoa; and

WHEREAS, a portion of Florida Avenue is also located with the geographical boundaries of the City of Cocoa Community Redevelopment Area (“Redevelopment Area”)

WHEREAS, the City and Agency find that it is in the best interests of the citizens of Cocoa to improve and upgrade Florida Avenue (generally between King Street and 400 feet south of Rosa L. Jones Drive) in accordance with several redevelopment goals and objectives of the City of Cocoa Redevelopment Plan, updated and dated _____ (“Redevelopment Plan”), which was approved by the City and Agency pursuant to the Community Redevelopment Act of 1969 and Chapter 8, Article II, of the City Code (“Florida Avenue Streetscape Project”); and

WHEREAS, the parties recognize the critical importance of implementing the goals and objectives of the Redevelopment Plan in furtherance of eliminating slum and blight and revitalizing the Redevelopment Area, and desire to expend funds for said purposes; and

WHEREAS, prior to the effective date of this Agreement, the City and the Agency have already expended funds to prepare design and engineering plans for a Florida Avenue Streetscape Project in furtherance of the goals and objectives of the Redevelopment Plan; and

WHEREAS, in addition, the City has applied for and received funding assistance from the Space Coast Transportation Planning Organization (“SCTPO”) and as a result, the Florida Department of Transportation (“FDOT”) will participate in the Florida Avenue Streetscape

Project up to a maximum amount of \$913,000 for purposes of funding a portion of a Florida Avenue Streetscape Project; and

WHEREAS, the total cost of the Florida Avenue Streetscape Project is estimated to be approximately \$3,024,174; and

WHEREAS, the City and the Agency desire to enter into this Interlocal Agreement for purposes of memorializing a cost sharing agreement to cover the remaining cost of the Florida Avenue Streetscape Project that is not funded by the SCTPO/FDOT funding; and

WHEREAS, in order to fund and complete the Florida Avenue Streetscape Project, the City Council, on January 26, 2016, approved the City entering into a Complete Street Local Agency Program Funding Agreement with the Florida Department of Transportation (“**Program Agreement**”); and

WHEREAS, pursuant to the Program Agreement, the City will be responsible for working with the FDOT to complete construction of the Florida Avenue Streetscape Project; and

WHEREAS, the Agency intends to commit available funds not to exceed \$210,000 to fund a portion of the City’s financial obligation under the Program Agreement; and

WHEREAS, pursuant to the Community Redevelopment Act of 1969, Chapter 8, Article II, of the City Code, and the Florida Municipal Home Rule Powers Act, the City and Agency have the authority to expend funds for redevelopment purposes including the redevelopment activities referenced under this Agreement; and

WHEREAS, the City and Agency hereby find that this Agreement is consistent with the Redevelopment Plan and in the best interests of the citizens of Cocoa.

NOW, THEREFORE, in consideration of the covenants and agreement hereinafter set forth, to be kept and performed by both parties, the Agency and the City agree as follows:

1. **RECITALS.** The foregoing recitals are true and correct and are incorporated herein by reference as a material part of this Agreement.
2. **CONDITIONS PRECEDENT.** All rights, obligations and liabilities of the parties under this Agreement shall be subject to the satisfaction of each of the following conditions precedent:
 - 2.1 **Approval.** The approval of this Agreement by both the Agency’s Board of Commissioners and the City Council of the City of Cocoa.
 - 2.2 **Execution.** The complete execution of this Agreement by the Mayor of the City of Cocoa and the Chairperson of the Agency.

- 2.3 **Recordation.** The filing of this Agreement with the Clerk of the Circuit Court in and for Brevard County, Florida, pursuant to Section 163.01(11), Florida Statutes.
3. **STATUTORY AUTHORITY.** This Agreement shall be considered an Agreement pursuant to Section 163.01, Florida Statutes, and in accordance with the Community Redevelopment Act of 1969 (s. 163.330, Florida Statutes, et. seq.), and Chapter 8, Article II, of the City Code. With respect to the City, this Agreement shall also be in furtherance of the Florida Municipal Home Rule Powers Act (s. 166.011, Florida Statutes, et. seq.).
4. **FLORIDA AVENUE STREETSCAPE PROJECT.**
- 4.1 **Project Scope.** This Agreement is related to improving and upgrading a portion of Florida Avenue generally located within the Redevelopment Area. Subject to final engineering plans being approved by City, the scope of Florida Avenue improvements and upgrades include, but may not be limited to, the improvements that are specifically listed in the Program Agreement.
- 4.2 **Design and Final Engineering and Construction Management of Florida Avenue Streetscape Project.** The City and Agency agree to cooperate with each other to diligently pursue the design and final engineering and construction of the Florida Avenue Street Streetscape Project. The City will serve as the lead agency and will manage the construction of the Project pursuant to the terms and conditions of the Program Agreement, and any other agreements deemed necessary by the City. It is anticipated that the construction of the Florida Avenue Streetscape Project will commence during the current fiscal year (2015/2016), but the commencement and completion schedule is subject to modification by the parties.
5. **CONDITIONS FOR CITY AND AGENCY CONTRIBUTION OF FUNDS TO FLORIDA AVENUE STREETSCAPE PROJECT.**
- 5.1 **Local Agency Agreement.** On January 26, 2016, the City Council agreed to enter into the Program Agreement with the FDOT to complete the construction of the Florida Avenue Streetscape Project. The City agrees to fund its portion of the Program Agreement subject to the Agency's contribution set for in Section 5.2 of this Agreement.
- 5.2 **Agency and City Financial Contribution.** The Agency agrees to contribute up to Two-Hundred and Ten Thousand Dollars and 00/100 (\$210,000.00) to fund a portion of the City's financial obligation under the Program Agreement. The City agrees to fund the total project cost under the Program Agreement, less the FDOT's maximum participation amount

of \$913,000 and the Agency's maximum contribution amount of \$210,000. At the discretion of the City, the Agency's contribution shall be made in partial draws or in one lump sum payment.

- 5.3 **Use of Agency Funds by the City.** The Agency funds shall be used only for reimbursement of actual "brick and mortar" construction costs incurred by the City under the Program Agreement to complete the Florida Avenue Streetscape Project. Such funds shall not be used for any other purpose by the City such as, by way of example, design, permitting, administrative fees, and other kinds of soft costs. Before reimbursement is made by the Agency for actual construction costs, the City shall be required to provide the Agency with documentation that the applicable construction work has been performed and accepted by the City unless the FDOT requires the reimbursement in advance of competing construction. Inasmuch as the Agency funds are administratively maintained by the City on behalf of the Agency, the City is hereby authorized, upon notice to the Agency, and without penalty, to stop processing any payment requests that may be in violation of this Agreement or the Program Agreement. Furthermore, if the Agency determines that the Agency funds, in whole or in part, were expended for a wrongful purpose, the Agency shall have the right to reimbursement from the City of the wrongfully expended funds.

- 5.4 **Budget & Appropriations.** The Agency and the City agree to budget and appropriate sufficient non-ad valorem available funds for purposes of funding the Program Agreement in accordance with the terms and conditions of this Agreement.

6. **MISCELLANEOUS TERMS AND CONDITIONS.**

- 6.1 **Notices.** All notices and correspondence shall be (i) hand delivered (with signed acknowledgment of receipt or affidavit of delivery), (ii) delivered by registered or certified mail, return receipt requested, or (iii) delivered by overnight carrier with signed acknowledgment of receipt. All such notices and correspondence shall be sent to the respective parties, with copies forwarded to their agents or attorneys, at the addresses set forth below or at such other addresses as the parties hereto shall designate to each other in writing.

- (a) if to Cocoa: City of Cocoa
John A. Titkanich, Jr., City Manager
65 Stone Street
Cocoa, FL 32922-1750
Telephone: (321) 433-8680
Facsimile: (321) 433-8690

(b) if to Agency:

Attn: Susan McGrady
65 Stone Street
Cocoa, FL 32922-1750
Telephone: (321) 433-8510
Facsimile: (321) 433-8513

Any notice or demand so given, delivered or made by United States Mail, shall be deemed so given, delivered or made three (3) days after the same is deposited in the United States mail, registered or certified, return receipt requested, addressed as above provided, with postage thereon prepaid. Any such notice, demand or document hand delivered or made by overnight carrier shall be deemed to be given, delivered or made upon delivery (or attempted delivery, if deliver is not accepted) of the same at the address where the same is to be given, delivered or made.

- 6.2 Time. Time is of the essence of this Agreement and every term and provision of this Agreement.
- 6.3 Severability. It is further understood and agreed that in the event any provision of this Agreement shall be adjudged, decreed, held, or ruled to be invalid, the parties shall meet to discuss whether the intent and purpose of this Agreement can still be fulfilled and whether the terms and conditions of this Agreement must be renegotiated or the Agreement should be terminated.
- 6.4 Non-waiver. No covenant, term, condition (or breach thereof), shall be deemed waived, except by written consent of the party against whom the waiver is claimed. A waiver of any covenant, term, or condition (or breach thereof), shall not be deemed to be a waiver of any other covenant, term or condition (or breach thereof).
- 6.5 Captions. Captions and headings in this Agreement are for convenience only and shall not be relied upon in construing the meaning of this Agreement or any of its provisions.
- 6.6 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 disputes or actions which arise out of or are based upon this Agreement, and in Orlando,

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

- 6.7 Integration. The drafting, execution, and delivery of this Agreement by the parties has been induced by no representations, statements, warranties, or agreements other than those expressed herein. This Agreement embodies the entire understanding of the parties, and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof unless expressly referred to herein. The parties agree that they have both contributed equally to the drafting of this Agreement and this Agreement shall not be construed more favorably against the other in the event of any conflict with regards to the terms and conditions used herein.
- 6.8 Governmental Disputes. In the event of a conflict under this Agreement, the parties shall adhere to the procedures set forth in Chapter 164, Florida Statutes.
- 6.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be considered an original agreement; but such counterparts shall together constitute but one and the same instrument.
- 6.10 Liability. Each party to this Agreement shall be responsible for its own actions and omissions, and the actions and omissions of its personnel and contractors, in performing its obligations pursuant to the terms and conditions of this Agreement.
- 6.11 Sovereign Immunity. Notwithstanding any other provision set forth in this Agreement, nothing contained in this Agreement shall be construed as a waiver of the Agency's or the City's right to sovereign immunity under Section 768.28, Florida Statutes, or other limitations imposed on either party's potential liability under state or federal law. As such, the Agency and the City shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, the Agency and 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). This paragraph shall survive termination of this Agreement.
- 6.12 Assignment Prohibited; Third Parties. This Agreement shall not be assigned in whole or in part. Nothing under this Agreement shall be

construed to give any rights or benefits in this Agreement to anyone other than the Agency and the City, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the Agency and the City and not for the benefit of any other party.

- 6.13 Termination. The City and the Agency may terminate this Agreement by mutual written agreement.
- 6.14 Claims Surviving Termination. Termination of this Agreement shall release both parties from their obligation to effect and to receive future performance hereunder. However, in addition to provisions of this Agreement that expressly survive the termination of this Agreement, termination of this Agreement does not preclude a claim for breach of this Agreement for non-performance.
- 6.15 Effective Date. The effective date of this Agreement shall be the date that this Agreement is recorded in the Official Records of Brevard County, Florida pursuant to Section 2.3 of this Agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals this day and year first above written.

CITY OF COCOA, FLORIDA

By: _____
HENRY U. PARRISH, III, Mayor

ATTEST:

By: _____
CARIE SHEALY
City Clerk

Approved by the City Council on: _____

**THE CITY OF COCOA REDEVELOPMENT
AGENCY, a Florida Community Redevelopment
Agency**

By: _____
HENRY U. PARRISH, III, Its Chairperson

ATTEST:

By: _____
Recording Secretary

Approved by the Board of Commissioners on: _____