

**Prepared by:**

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**Return to:**

Monica Arsenault  
City Clerk  
65 Stone Street  
Cocoa, Florida 32922  
(321) 433-8488

**INTERLOCAL AGREEMENT**

**Lee Wenner Park Parking Project**  
**(\$2,187,120.89 - Redevelopment Funding Contribution)**

**THIS INTERLOCAL AGREEMENT (“Agreement”)** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024, between the **COCOA COMMUNITY REDEVELOPMENT AGENCY**, a Florida Community Redevelopment Agency (“**CRA**”) and the **CITY OF COCOA**, Florida, a Florida Municipal Corporation (“**City**”).

**W I T N E S S E T H:**

**WHEREAS**, the City established the CRA in 1981 pursuant to the Community Redevelopment Act of 1969 and Chapter 8, Article II of the City Code, and the CRA’s redevelopment area is located within the jurisdictional limits of the City of Cocoa; and

**WHEREAS**, the City and CRA find that it is in the best interests of the citizens of Cocoa to jointly participate in redevelopment activities in accordance with the redevelopment goals and objectives of the CRA Redevelopment Plan, as updated and amended in September 2022 (“Redevelopment Plan”), which was approved by the City and CRA pursuant to the Community Redevelopment Act of 1969 and Chapter 8, Article II, of the City Code; and

**WHEREAS**, the CRA Redevelopment Plan provides that the redevelopment of Lee Wenner Park and supporting public capital improvements at Lee Wenner Park are major proposed redevelopment activities of the Plan; and

**WHEREAS**, the CRA Redevelopment Plan provides that the CRA shall support the development of parking strategies to support its transportation goals and to accommodate parking needs associated with development in the downtown area; and

**WHEREAS**, the parties recognize the critical importance of implementing the goals and objectives of the Redevelopment Plan in furtherance revitalizing the Community Redevelopment Area by constructing public parking improvements as part of the Lee Wenner Park redevelopment, and desire to expend funds for said purposes; 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 has the authority to expend funds for redevelopment purposes; and

**WHEREAS**, in furtherance of this authority, the City has entered into an Agreement with Doug Wilson Enterprises, identified as construction contract B-24-06-COC, to Doug Wilson Enterprises, Inc., in the amount of \$1,822,600.74 for the Lee Wenner Park parking improvements project, with funding authorized by the CRA; and

**WHEREAS**, in furtherance of this authority, the City has resolved to approve an additional project contingency fee for construction change orders not to exceed \$364,520.15, to cover any unforeseen matters during the course of the project, with funding authorized by the CRA; and

**WHEREAS**, the CRA agrees to fund the Lee Wenner Park parking improvements project by reimbursing the City for the cost of construction and change orders, in an amount not to exceed \$ 2,178,120.89; and

**WHEREAS**, the City and CRA 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 CRA and City agree as follows:

**Section 1.0. Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference as a material part of this Agreement.

**Section 2.0. 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 Redevelopment Agency Board 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 Redevelopment Agency Board.

2.3. **Recordation.** The filing of this Agreement with the Clerk of the Circuit Court in Brevard County, Florida, pursuant to Section 163.01(11), Florida Statutes.

**Section 3.0. 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.).

**Section 4.0. Funding Contribution by the CRA.** The CRA hereby agrees to provide the City **One Million Eight Hundred Twenty-Two Thousand Six Hundred and 74/100 Dollars (\$1,822,600.74)** plus an additional twenty percent (20%) project contingency fee of Three Hundred Sixty-Four Thousand Five Hundred Twenty and 15/100 Dollars (\$364,520.15) for a total amount not to exceed **Two Million One Hundred Eighty-Seven Thousand One Hundred Twenty and 89/100 Dollars (\$2,187,120.89)** for the purposes of funding the Lee Wenner Park parking improvement project. (“**Funding Contribution**”). The Funding Contribution shall be payable by the CRA upon execution of this Agreement provided all conditions in Section 6.0., below, are met. The Funding Contribution must be expended by the end of the current fiscal year ending on September 30, 2024, unless any unexpended funds are otherwise rolled over and approved by the CRA Board in the 2024/2025 Annual CRA Budget.

**Section 5.0. Authorized Redevelopment Activities.** The Funding Contribution authorized in accordance with Section 4.0. of this Agreement shall be expended only on the Lee Wenner Park Parking Improvements project to be constructed by Doug Wilson Enterprises, Inc., as authorized in construction contract no. B-24-06-COC.

**Section 6.0. Conditions of Funding.** The following conditions shall apply to the Funding Contribution provided by the CRA pursuant to this Agreement:

6.1. The Funding Contribution authorized by this Section 6 shall not be used for any other purpose by the City. Before reimbursement is made by the CRA for any of the redevelopment activities authorized by this Agreement, the City shall be required to provide the CRA with documentation that the applicable activities have been performed or are ready to be immediately performed. Inasmuch as the Funding Contribution are administratively maintained by the City on behalf of the CRA, the CRA is hereby authorized, upon notice to the City, and without penalty, to stop processing any payment request made by the City that may be in violation of this Agreement. Furthermore, if the CRA determines that the Funding Contribution, in whole or in part, was expended for a wrongful purpose, the CRA shall have the right to reimbursement from the City of the wrongfully expended funds.

6.2. In the event that the City does not fully expend the Funding Contribution by September 30, 2024, and the CRA Board has not rolled over any unexpended portion to the 2024/2025 CRA Annual Budget and/or the CRA terminates this Agreement pursuant to the terms herein, the CRA shall have the right, in the sole discretion of the CRA Board, to immediately “claw back” the Funding Contribution from the City. In the event that the CRA Board requires claw back, the City may conduct an internal transfer of any and all

unexpended portions of the Funding Contribution. The CRA will provide subsequent written notice to the City that it has clawed back any portion of the Funding Contribution.

**7.0. Miscellaneous Terms and Conditions.**

7.1 **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  
Attn: Stockton Whitten, City Manager  
65 Stone Street  
Cocoa, FL 32922-1750  
Telephone: (321) 433-8737

(b) if to the Cocoa CRA: Cocoa CRA  
Attn: Michael C. Blake, Chairperson  
65 Stone Street  
Cocoa, FL 32922-1750  
Telephone: (321) 474-1758

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.

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

7.3 **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.

7.4 **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).

7.5 **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.

7.6 **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.

7.7 **Integration.** The drafting, execution, and delivery of this Agreement by the parties have 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.

7.8 **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.

7.9 **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.

7.10 **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.

7.11 **Sovereign Immunity.** Notwithstanding any other provision set forth in this Agreement, nothing contained in this Agreement shall be construed as a waiver of the CRA'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 CRA and the City shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, the CRA 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.

7.12 **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 CRA and the City, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the CRA and the City and not for the benefit of any other party even though other parties may be mentioned in this Agreement. The mention of any other party in this Agreement is not intended to afford these parties any rights whatsoever under this Agreement.

7.13 **Termination.** In addition to other rights granted to the City herein to terminate this Agreement, the City and the CRA may terminate this Agreement by mutual written agreement.

7.14 **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.

7.15 **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**

\_\_\_\_\_  
**Michael C. Blake, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Monica Arsenault, CMC**  
**City Clerk**

Approved by the City Council on: \_\_\_\_\_

**COCOA COMMUNITY REDEVELOPMENT AGENCY**

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**Michael C. Blake**  
**Agency Chairperson**

**ATTEST:**

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**(Recording Secretary)**

Approved by the CRA Board on: \_\_\_\_\_