

ORDINANCE NO. 02-2020

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 8, ARTICLE III OF THE CITY CODE RELATED TO THE DIAMOND SQUARE COMMUNITY REDEVELOPMENT AGENCY FOR PURPOSES OF IMPLEMENTING THE INTERLOCAL AGREEMENT BETWEEN THE CITY, AGENCY AND BREVARD COUNTY; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, 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 of Cocoa, Diamond Square Redevelopment Agency, and Brevard County have entered into that certain Interlocal Agreement in 2019, which was recorded at Brevard County Official Record Book, Page 1078 (“Interlocal Agreement”); and

WHEREAS, pursuant to the Interlocal Agreement, the operational terms and conditions of the Diamond Square Redevelopment Agency were amended by mutual agreement of the parties; and

WHEREAS, under the terms and conditions of this Ordinance, the City Council has determined that it is in the best interest of the City to implement the terms and conditions of the Interlocal Agreement by modifying the enabling ordinance of the Diamond Square Redevelopment Agreement; 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.

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Section 2. Code Amendment. Chapter 8, Section 8-53, of the Code of Ordinances, City of Cocoa, Florida, is hereby amended as follows (underlined type indicates additions and ~~strikeout~~ type indicates deletions, while asterisks (* * *) indicate a deletion from the Ordinance of text existing in Chapter 8, Section 8-53. It is intended that the text in Chapter 8, Section 8-53 denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this ordinance.):

Sec. 8-51. – Definitions.

The following terms, wherever used or referred to in this part, have the following meanings:

* * *

County Board means the Brevard County Board of County Commissioners.

County CRA Interlocal Agreement 2019 means that certain Interlocal Agreement Between City of Cocoa, Diamond Square Redevelopment Agency, and Brevard County, approved by the County, the City Council, which was recorded at Brevard County Official Record Book 8617, Page 1078, as may be amended.

* * *

Sec. 8-53. - Creation of community redevelopment agency board; composition; terms; appointment of chairperson and vice-chairperson.

- (a) Pursuant to Section 163.356(2), Florida Statutes and the County CRA Interlocal Agreement 2019, the Agency board of commissioners is hereby reconstituted effective [Insert Date], as follows:

(1) The Agency board shall consist of seven (7) commissioners. Six (6) commissioners shall be appointed by the City Council and one (1) shall be a Brevard County Board of County Commissioner in whose District the Agency is located, or that County Commissioner's designee approved by the County Board who meets the qualifications of Section 163.356(3)(b), Florida Statutes. The District County Commissioner's duties on the Agency board shall be considered additional duties of the office of County Commissioner.

(2) The term of office of an Agency Commissioner shall be four (4) years. No Agency Commissioner appointed by the City Council or the County Board shall serve more than two (2) consecutive terms, but may be considered for reappointment followed by at least one year off of the Agency board. Upon reappointment, said individual will again be subject to the two

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(2) consecutive term limit. However, notwithstanding the term limit restriction set forth herein, a District County Commissioner's term serving on the Agency board shall continue and run concurrently with his or her term on the County Board without regard to the term limits imposed by this subsection. Each Agency commissioner shall serve until his or her successor has been appointed and has qualified.

(3)Three (3) Agency commissioners shall be appointed by the City Council to initially serve terms of 1,2 and 3 years respectively from the date of their initial appointments. Upon expiration of the initial term, the subsequent terms for these three Agency commissioners shall be four (4) years each.

(4)Three (3) Agency commissioners shall be appointed by the City Council to initially serve four (4) year terms from the date of their initial appointment. Upon expiration of the initial term, the subsequent terms for these three Agency commissioners shall be four (4) years each.

(5) One (1) Agency commissioner shall be the District County Commissioner or his or her designee appointed by the County Board. If the County Board is required to make an initial appointment, the term of the initial appointment shall be a term of four (4) years from the date of their initial appointment unless the County Board determines that the District County Commissioner shall resume serving on the Agency board.

- (b) After the initial term commences upon appointment by the City Council or County Board, a vacancy occurring during a term, resulting from death, resignation or removal from office of a commissioner, shall be filled for the unexpired term. Service of an unexpired term shall not be counted towards the term limitation set forth in this Section.
- (c) Except for the District County Commissioner, any person may be appointed to serve as a commissioner on the board if he or she resides, or is engaged in business, within the city, and is otherwise eligible for such appointment pursuant to Part III, Chapter 163, Florida Statutes. For the purposes of this provision, "engaged in business" means owning a business, practicing a profession, or performing a service for compensation, or serving as an officer or director of a corporation or other business entity so engaged.
- (d) Agency commissioners may be removed from office as provided by Section 163.356(4), Florida Statutes.
- (e) Annually, on or about June of each year, or as otherwise determined by the city council, the city council shall have the right to name the chairperson and vice-chairperson of the Agency board, who must also be commissioners of said board at all times during their tenure as chairperson or vice-chairperson. Once appointed, the chairperson and vice-chairperson shall continue to serve in that capacity until their respective term is terminated or as otherwise determined by the City Council.

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~~Pursuant to Resolution No. 98-19 of the city council dated March 24, 1998 and Section 163.356, Florida Statutes, the community redevelopment agency board shall consist of seven (7) commissioners. Seven (7) persons shall be appointed from time to time by the city council to serve as agency commissioners. A certificate of appointment shall be filed with the city clerk and is due and conclusive evidence of due and proper appointment of such commissioner.~~

- ~~(b) Except for the initial commissioners, appointees shall serve terms of four (4) years each. Each commissioner shall serve until his or her successor has been appointed and has qualified.~~
- ~~(c) In the event of death, resignation, or removal from office of a commissioner, any individual appointed to fill a vacancy shall fill the remainder of the term of the person whose actions created the vacancy in office.~~
- ~~(d) Any person may be appointed to serve as a commissioner on the board if he or she resides, or is engaged in business, within the city, and is otherwise eligible for such appointment pursuant to Part III, Chapter 163, Florida Statutes. For the purposes of this provision, "engaged in business" means owning a business, practicing a profession, or performing a service for compensation, or serving as an officer or director of a corporation or other business entity so engaged.~~
- ~~(e) Agency commissioners may be removed from office as provided by Section 163.356(4), Florida Statutes.~~
- ~~(f) Annually, on or about June of each year, the city council shall name the chairperson and vice chairperson of the board, who must also be commissioners of said board at all times during their tenure as chairperson or vice chairperson.~~

* * *

Sec. 8-55. – Powers of Diamond Square redevelopment agency board.

- (a) The Diamond Square community redevelopment agency is vested with the following powers pursuant to Section 163.370, Florida Statutes, and Resolution 97-161, Brevard County:
 - (12) Subject to prior approval by the City Council and Brevard County pursuant to Section 7 of the County CRA Interlocal Agreement 2019, ~~The power to borrow money and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the federal government or the state, county, or other public body or from any sources public or private, for the purposes of Part III, Chapter 163, Florida Statutes, and to give such security as may be required and to enter into and carry out contracts or agreements in connection therewith, and to include in any contracts for financial assistance with the federal government for or with respect to community redevelopment~~

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and related activities such conditions and powers pursuant to federal law as the city deems reasonable and appropriate which are not inconsistent with the purposes of this Part III, Chapter 163, Florida Statutes. The maturity date for any existing or future indebtedness incurred by the Agency, for which County tax increment fund payments have been pledged as a source of revenue, shall not extend beyond the Agency's termination date;

* * *

Sec. 8-57. - Duration of agency.

Pursuant to Section 163.356(2), Florida Statutes and the County CRA Interlocal Agreement 2019, the delegation of authority provided by Brevard County shall terminate on September 30, 2032. Upon such termination, the Agency, City and County shall take such actions as may be required to terminate the Agency on the termination date, which action shall include the amendment or repeal of any City or County resolutions or ordinances (1) delegating authority to the City to create a community redevelopment agency and (2) creating the community redevelopment agency and trust fund. Unless extended by resolution of the board of county commissioners amending Resolution No. 97-161: 1) the delegation of authority provided for in Brevard County Resolution No. 97-161 shall terminate on August 18, 2022 (25 years after the date of delegation of authority to create the Diamond Square community redevelopment agency by virtue of Brevard County Resolution No. 97-161). Thereupon, the community redevelopment agency shall cease to exist as a community redevelopment agency pursuant to Part III, Chapter 163, Florida Statutes.

Sec. 8-58. - Agency annual budget and audit.

- (a) Consistent with Section 163.387, Florida Statutes, the community redevelopment agency shall adopt a fiscal year budget.
- (b) The community redevelopment agency shall not expend in any one (1) community redevelopment agency fiscal year more than twenty-five percent (25%) of the tax increment revenues raised for that fiscal year pursuant to Section 163.387, Florida Statutes, on administrative expenses. For the purpose of this section, the term "administrative expenses" includes personnel costs (i.e.—salary and fringe benefits) of community redevelopment agency staff, office equipment and supplies, operating overhead (office space, electricity and utilities for office), postage, printing or copying charges, travel costs, seminar costs, and similar direct expenses of the community redevelopment agency. Allocations of costs in a community redevelopment agency construction or consultant contract for administrative costs of the contractor are not included within the 25 cap. Further, the agency shall not annually expend more than twenty-five percent (25%) of the County's annual tax increment fund payment on administrative expenses.

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(c) The community redevelopment agency shall comply with the annual audit requirements set forth in Section 9 of the County CRA Interlocal Agreement 2019.

Sec. 8-59. - Community redevelopment plan approved.

- (a) The city council finds, declares and determines that the matters set forth in the community development plan update, prepared by Real Estate Research Consultants, Inc., AECOM, and Planning Design Group, and dated March 2014 Hoyt.DSW pursuant to Section 163.360. Florida Statutes, are true and correct, approved, and are incorporated herein by this reference.
- (b) Finding of conformance with comprehensive plan. The city council hereby finds, determines and declares that the community redevelopment plan update conforms to the general comprehensive plan of the city as a whole.
- (c) Finding of adequacy of recreational facilities. The city council hereby finds, determines and declares that the community redevelopment plan update gives due consideration to the provision of adequate park and recreational areas and facilities that be desirable for neighborhood improvement, with special consideration for the health, safety, and welfare of children residing in the general vicinity of the site covered by the plan.
- (d) Finding of relocation. The city council finds that a feasible method exists for the relocation of families who will be displaced from the community redevelopment area in decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such families.
- (e) Finding of maximum opportunity. The city council hereby finds that the community redevelopment plan update will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the rehabilitation or redevelopment of the entire community redevelopment area by private enterprise.
- (f) The city council does hereby adopt the community redevelopment plan update as the community redevelopment plan for the Diamond Square redevelopment area and authorizes and directs the community redevelopment agency to proceed with the implementation of the plan update.

Sec. 8-60. - Redevelopment trust fund created.

- (a) There is hereby established and created, in accordance with the provisions of the Act, a community redevelopment trust fund (the "fund") for the community redevelopment area, which fund shall be utilized and expended for the purposes of and in accordance with the plan,

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including any amendments or modifications thereto approved by the city council including any "community redevelopment", as that term is defined in Section 163.340(9), Florida Statutes, under the plan.

- (b) The monies to be allocated to and deposited into the Fund shall be used to finance "community redevelopment" within the community redevelopment area according to tax increment revenues attributed to the community redevelopment area, which shall be appropriated by the agency. The agency shall utilize the funds and revenues paid into and earned by the fund for community redevelopment purposes as provided in the plan and as permitted by law. The fund shall exist for the duration of the "community redevelopment" undertaken by the agency pursuant to the plan to the extent permitted by the Act. [Monies shall be held in the fund by the city for and on behalf of the agency, and disbursed from the fund as provided by the agency.]
- (c) There shall be paid into the fund each year by each of the "taxing authorities," as that term is defined in Section 163.340(2), Florida Statutes, levying ad valorem taxes within the community redevelopment area, a sum equal to ninety-five percent (95%) of the incremental increase in ad valorem taxes levied each year by that taxing authority, as calculated in accordance with section 8-60(5) hereof and the Act, based on the base tax year established in section 8-60(4) hereof (such annual sum being hereinafter referred to as the "tax increment").
- (d) The most recent assessment roll used in connection with the taxation of property prior to the effective date of the ordinance from which this section derives shall be the preliminary assessment roll of taxable real property in Brevard County, prepared by the property appraiser of Brevard County, and filed with the department of revenue pursuant to Section 193.1142, Florida Statutes (1997), reflecting valuation of real property for purposes of ad valorem taxation as of January 1, 1998 (the "base year value"), and all deposits into the fund shall be in the amount of tax increment calculated as provided in section 8-60(5) hereof based upon increases in valuation of taxable real property from the base year value.
- (e) The tax increment shall be determined and appropriated annually by each taxing authority, and shall be an amount equal to ninety-five percent (95%) of the difference between:
 - (1) That amount of ad valorem taxes levied each year by all taxing authorities on taxable real property located within the geographic boundaries of the community redevelopment area; and
 - (2) That amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for all taxing authorities, upon the total of the assessed value of the taxable real property in the community redevelopment area as shown upon the assessment roll used in connection with the taxation of such property by all taxing authorities, prior to the effective date of the ordinance from which this section derives.

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- (f) All taxing authorities shall annually appropriate to and cause to be deposited in the fund the tax increment determined pursuant to the Act and section 8-60(5) hereof at the beginning of each fiscal year thereof as provided in the Act. The obligation of each taxing authority to annually appropriate the tax increment for deposit in the fund shall commence immediately upon the effective date of the ordinance from which this section derives and continue to the extent permitted by the Act so long as any indebtedness pledging "increment revenue" have been paid.
- (g) The funds shall be established and maintained as a separate trust fund by the agency so that the fund may be promptly and effectively administered and utilized by the agency expeditiously and without undue delay for its statutory purpose pursuant to the plan.
- (h) The governing body of the agency shall be the trustees of the fund and shall be responsible for the receipt, custody, disbursement, accountability, management, investments and proper application of all monies paid into the fund.
- (i) Notwithstanding the aforesaid, and pursuant to the County CRA Interlocal Agreement 2019, the County will continue its annual tax increment contribution to the Agency trust fund in every fiscal year through the Agency's termination date, however, said annual County contribution shall be capped at an amount not to exceed \$150,000 in any fiscal year in which the Agency exists. In the event the County's tax increment exceeds \$150,000 in any fiscal year ("Extra TIF"), nothing in this Agreement shall be construed or interpreted as preventing the County from contributing, in its sole discretion, the Extra TIF to fund any portion of an Agency redevelopment project described in the redevelopment plan update. The Parties agree that no County tax increment funds (TIF) will be used to fund travel expenses for Agency Board Commissioners.

Section 3. 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 4. Incorporation Into Code. This Ordinance shall be incorporated into the City Code for the City of Cocoa, and any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions, not affecting the construction or meaning of this ordinance and the City Code may be freely made.

Section 5. Update the City's Financial Operations Manual. This Ordinance shall be incorporated into the City of Cocoa Financial Operations Manual by the Finance Director.

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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 _____, 2020.

Jake Williams Jr., Mayor

ATTEST:

Carie Shealy, City Clerk