

Prepared by and Return to:

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

INTERLOCAL AGREEMENT

(Joe Lee Smith Center)

THIS INTERLOCAL AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, 2020 (“**Effective Date**”) between the **CITY OF COCOA**, a Florida municipal corporation (“**City**”) and the **BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**, a political subdivision of the State of Florida (“**County**”).

W I T N E S S E T H:

WHEREAS, the County and City desire to continue to cooperate in the provision of recreational services and facilities within the jurisdictional limits of the City in an efficient and economical manner for the joint use and benefit of the residents of the City and the County; and

WHEREAS, the County and the City have common power to provide recreational services and facilities for the benefit of the public; and

WHEREAS, Chapter 71-544 of the Laws of Florida established a Recreational Board to govern the Recreational District 4, which is authorized to impose a tax to not exceed nine tenths of one mil on taxable property within the District boundaries, encompassing the City and areas of the County, and for the purpose of providing and maintaining recreational facilities and programs; and

WHEREAS, the Recreational Board prepares a budget of expenditures, which shall be submitted to the Board of County Commissioners no later than August 1st of each year, and the Board of County Commissioners of Brevard County establishes a budget for the Recreation District 4 for the ensuing fiscal year, which determines the amount of the tax to be assessed for said year; and

WHEREAS, the County and the City previously entered into an Interlocal Agreement on April 29, 1986, for the purposes of joint provision of recreational facilities with Recreational District 4 funds, which expired on April 28, 2011, though the County and City have continued to cooperate in the provision of recreational services and facilities since its expiration; and

WHEREAS, the County and the City find that it is in the best interests of its citizens to construct improvements in association with the City’s Dr. Joe Lee Smith Center project; and

WHEREAS, the City and the County desire to enter into this Interlocal Agreement for purposes of authorizing the reimbursement of \$199,814.00 to the City by the County for the construction and installation of certain Joe Lee Smith Center improvements; and

NOW, THEREFORE, in consideration of the covenants and agreement hereinafter set forth, to be kept and performed by both parties, the County 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 County's Board of County 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 Chair of the Board of County Commissioners.
 - 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. 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. **JOE LEE SMITH CENTER IMPROVEMENTS.**
 - 4.1 **Reimbursement for the Joe Lee Smith Center Improvements.** The County agrees to reimburse the City in the amount of \$199,814.00 for such construction and installation of the following Joe Lee Smith Center improvements (hereinafter "Improvements"):

Carpentry Improvements: Rough Carpentry \$89,900.00, Frame and Hardi 6 Exterior Columns \$2,880.00, Lumber Package \$44,045.00, Wood Trusses \$32,539.00, and Cabinets \$20,050.00;

Thermal and Moisture Protection Improvements: Dampproofing \$8,500.00;

Doors and Hardware Improvements: Access Doors and Panels \$900.00 and Large Mirrors \$800.00; and

Equipment Improvements: Wall Safe (OCI) \$200.00.

A copy of the "Application and Certificate for Payment" dated May 7, 2020, which identifies the Improvements and price per Improvement is attached hereto as

Exhibit A and is incorporated by this reference.. Upon completion of the Improvements, the City shall submit to the County an invoice with supporting justification of expenses associated with the Improvements and upon receipt and approval of the County of the invoice, the County shall reimburse the City in the amount of \$199,814.00 consistent with the Florida Prompt Payment Act.

4.2 **Joe Lee Smith Center Operations.** Upon completion, the Joe Lee Smith Center shall remain open for public use consistent with Brevard County Parks and Recreation Procedures.

5. **MISCELLANEOUS TERMS AND CONDITIONS.**

5.1 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.

5.2 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.

5.3 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.

5.4 Indemnification. To the extent permitted by law, the City agrees to indemnify and hold harmless the County from any and all liability and/or claims of any kind arising out of the City's own negligence associated with the construction of the Improvements. To the extent permitted by law, the County agrees to indemnify and hold harmless the City from any and all liability and/or claims of any kind arising out of the County's own negligence.

Neither party intends, and this Agreement shall not be construed, to waive sovereign immunity or the monetary limits, or the type of damages recoverable, under section 768.28, Florida Statutes, as that section may be amended from time to time.

5.5 **Governing Law, Venue and Attorney's Fees.** All questions pertaining to the validity and interpretations of this Agreement shall be determined in accordance with the Laws of the State of Florida. Venue shall be in Brevard County, Florida, and any trial shall be non-jury. In the event of any litigation between the Parties arising out of this Agreement, each Party will bear its own attorney's fees and costs.

- 5.6 Notices. All notices, requests, demands and other communications which are required or may be given under this Agreement shall be in writing and shall be sent to the following:

County:

Brevard County Parks and Recreation
2725 Judge Fran Jamieson Way, Bldg. B, Suite 203
Viera, Florida 32940

City:

City of Cocoa
Attn: City Manager
65 Stone Street
Cocoa, Florida 32922

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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: _____
JAKE WILLIAMS, Jr., Mayor

ATTEST:

By: _____
CARIE SHEALY
City Clerk

Approved by the City Council on: _____

**BREVARD COUNTY BOARD OF COUNTY
COMMISSIONERS**

By: _____
BRYAN LOBER, Chair

ATTEST:

By: _____
SCOTT ELLIS, Clerk to Board of
County Commissioners

Approved by the Board of Commissioners on: _____

EXHIBIT A
APPLICATION AND CERTIFICATION FOR PAYMENT