



## Legislation Text

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File #: 21-266, Version: 1

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### **CITY COUNCIL AGENDA ITEM**

Memo Date: March 26, 2021  
Agenda Date: April 27, 2021  
Prepared By: Norma E. Hernandez, Administrative Secretary  
Through: John A. Walsh, P.E., Utilities Director  
Requested Action:

Authorizing Staff to submit Renewal of Consumptive Use Water Permit (CUP) #50245 with St. Johns River Water Management District; In furtherance of the professional services required by the City to renew the CUP, Approve Task Order 2021-19 with Water Resource Associates for Consulting Professional Services to Assist the City of Cocoa with the Renewal of the Consumptive Use Permit (CUP) #50245; Approve de la Parte & Gilbert, P.A. as Special Counsel subconsultant for CUP Renewal Through the City Attorney's Agreement, by Exemption to Competitive Bid; and Authorizing the City Manager to approve and contract with Other Consultants as deemed necessary to support the CUP Renewal.

### **BACKGROUND:**

In November 2003 the St. Johns River Water Management District (SJRWMD) issued Consumptive Water Use Permit (CUP) No. 50245 to the City of Cocoa. The CUP was issued as a 20-year duration permit that requires the City to submit compliance reports at 5-year intervals, pursuant to Section 373.236(5), Florida Statutes. The CUP is coming up for renewal. The CUP permits the City to withdraw water from its aquifer wells and surface water from Taylor Creek Reservoir. The water is then treated at the Dyal Water Treatment Plant and distributed to the City's current and future water customers.

On April 27, 2010, the City entered into an agreement with WRA to provide consulting professional services and assist with the completion of the elements necessary to implement the TCR project, and other water supply and water resource related tasks.

The CUP renewal will require a team of engineering, legal and other professionals with certain technical expertise related to the CUP process and environmental permitting. This team must also be ready to serve as subject matter experts for any legal challenges that could occur during the CUP renewal process. Therefore, it is critical that the team be specifically chosen by the City based on their experience with the City of Cocoa's water system and familiarity with the CUP process. Additionally, there is always the potential in the CUP process that an evidentiary administrative proceeding will occur, it is extremely important that consultants working to support the CUP application work under the direction and supervision of legal counsel presenting the CUP renewal application for approval throughout all legal proceedings.

Because the CUP is set to expire in November 2023, the City requested a proposal from WRA to assist with the CUP renewal. In addition, Staff and the City Attorney are recommending that the City retain Ed de la Parte of de la Parte and Gilbert, P.A. to serve as special counsel in accordance with the attached engagement letter for legal services necessary to obtain CUP approval. Mr. de la Parte has successfully represented the City in a previous contested CUP renewal and currently serves as special counsel for the City related to several more recent technical issues pertaining to implementing the TCR/SJR Joint Project permit application being pursued jointly with Orange County, TOHO, OUC and East Central Florida Utility (Deseret Ranch). The CUP renewal also is important to pursuing the implementation of the Joint Project.

Staff is requesting City Council approval of Task Order 2021-19 with WRA for professional consulting services for the renewal of the Consumptive Use Permit #5024. In addition, Staff is requesting the authorization to use the special services budget of \$120,000 and the consulting services budget of \$125,000 less any previous encumbrances subject to the City Manager approval to be available for the project.

**STRATEGIC PLAN CONNECTION:**

N/A

**BUDGETARY IMPACT:**

Budgeted	Yes
If not budgeted, is amendment/transfer attached?	N/A

**Task Order for WRA**

Amount Requested	\$84,550
Account Number	421-4010-536.31-00, WS0919
Account Name	Professional Services

Original PO 77901 \$1,750

Task Order/Change Order to PO \$84,550.

Total PO for WRA \$86,300.

**Exemption to Competitive Bid for Special Council de la Parte & Gilbert**

Amount Requested	\$50,000
Account Number	421-4010-536.31-00, WS0919
Account Name	Professional Services

The Budget Balance for Project WS0919 is \$108,700. This budget amount may be used for additional Consultants, if necessary, with the approval of the City Manager without further approval of the City Council.

**PREVIOUS ACTION:**

In November 2003 the St. Johns River Water Management District (SJRWMD) issued Consumptive Use Permit (CUP) No. 50245 to the City of Cocoa. The CUP was issued as a 20-year duration permit that requires the City to submit compliance reports at 5-year intervals, pursuant to Section 373.236(5), Florida Statutes.

On April 27, 2010, the City entered into an agreement with WRA to provide consulting professional services and assist with the completion of the elements necessary to implement the TCR project, and other water supply and water resource related tasks.

**RECOMMENDED MOTION:**

Authorizing Staff to submit Renewal of Consumptive Use Water Permit (CUP) #50245 with St. Johns River Water Management District; In furtherance of the professional services required by the City to renew the CUP, Approve Task Order 2021-19 with Water Resource Associates for Consulting Professional Services to Assist the City of Cocoa with the Renewal of the Consumptive Use Permit (CUP) #50245; Approve de la Parte & Gilbert, P.A. as Special Counsel subconsultant for CUP Renewal Through the City Attorney's Agreement, and by Exemption to Competitive Bid; and Authorizing the City Manager to approve and contract with Other Consultants as deemed necessary to support the CUP Renewal.