



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

New Business - Add-On

J.5.

4/20/2021

Subject:

PLACEHOLDER re: Discussion Driftwood Escrow
District 2

Fiscal Impact:

Dept/Office:

District 2

Requested Action:

Summary Explanation and Background:

Clerk to the Board Instructions:



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

April 21, 2021

MEMORANDUM

TO: Commissioner Bryan Lober, District 2

RE: Item J.5., Agreement Regarding Developer's Contribution for County's Third Party Legal, Economic, and Financial Analysis of the Development of Convention Center and Parking Garage

The Board of County Commissioners, in regular session on April 20, 2021, authorized the Chair, the County Manager, and the County Attorney to execute the Agreement regarding developer's deposit of funds to cover the County's costs for third party legal, economic, and financial analysis of the development of the Convention Center and Parking Garage, and to conduct the legal and the financial evaluation, in the terms of the Agreement; authorized the advertisement of a Request for Proposal to obtain the economic management analysis; authorized the reduction of the solicitation time from 21 days to seven days; appointed the Selection and Negotiation Committee to consist of Kathy Wall, Assistant to County Manager, Peter Cranis, Tourism Development Office Director, and Larry Lallo, Merritt Island Redevelopment Agency Director; authorized the County Manager to execute any contract, or contract amendment as necessary, upon review and approval by the County Attorney's Office, Risk Management, and Purchasing; authorized the County Manager to approve the necessary Budget Change Requests; and approved Driftwood to deposit \$75,000 with the County for use to pay for the legal, financial, and economic evaluation of a project dealing with the Westin property that would replace the International Palms, Cocoa Beach. Enclosed is fully-executed Agreement.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK



Kimberly Powell, Clerk to the Board

/sm

Encl. (1)

cc: County Manager
County Attorney
Central Services
Committee Members
Finance
Budget

THIS DOCUMENT PREPARED BY
AND RETURN TO:

**AMENDMENT TO AGREEMENT REGARDING DEVELOPER'S
CONTRIBUTION FOR COUNTY'S THIRD PARTY LEGAL, ECONOMIC AND
FINANCIAL ANALYSIS OF THE DEVELOPMENT OF THE BREVARD COUNTY
CONVENTION CENTER AND PARKING GARAGE**

THIS AMENDMENT TO AGREEMENT (the "AMENDMENT") is made and entered into as of this 24th day of May, 2021, by and between **DAD 1300 N ATLANTIC COCOA, LP**, a Delaware limited partnership, whose address is 255 Alhambra Circle, Suite 760, Coral Gables, Florida 33134 (the "Developer"), and **BREVARD COUNTY, FLORIDA**, whose address is c/o County Attorney Office, 2725 Judge Fran Jamieson Way, Viera, Florida 32940 (the "County"). Developer and County are sometimes referred to herein together as the "Parties".

WITNESSETH:

WHEREAS, on April 20, 2021 Developer, the owner of the International Palms Resort located on approximately 15.7 acres of land located at 1300 N. Atlantic Avenue, Cocoa Beach, Brevard County, Florida, as more particularly described in the attached **Exhibit "A"** (the "Property") submitted an Agreement Regarding Developer's Contribution for Third Party Legal, Economic and Financial Analysis of the Development of Convention Center and Parking Garage ("Agreement") to the Brevard County Board of County Commissioners (Board); and

WHEREAS, the Board approved the Agreement and executed the Agreement on April 20, 2021; and

WHEREAS, based on Developer's request to have County Staff analyze the economic, legal and financial feasibility of the Project and risk to the County, Developer, in accordance with the terms of this Agreement, agrees to pay to the County the amount of **SEVENTY FIVE THOUSAND AND NO/100 DOLLARS (\$75,000.00)** to be held in a separate fund, for the payment of approved third party invoices incurred for such economic, financial, risk and legal analysis of the feasibility of the Project by the County (collectively, the "Analysis").

WHEREAS, pursuant to the Agreement, the County was required to hire consultants to review the updated project proposal presented by Developer, and

WHEREAS, the County was required to hire an economic consultant after issuance of a Request for Proposal (RFP) and have analysis commenced within three weeks of delivery of the proposal from Developer; and

WHEREAS, the County received the proposal on May 13, 2021, and

WHEREAS, on May 14, 2021, a lawyer representing the Developer requested that the County staff retain the proposal and refrain from forwarding the proposal to the consultant hired pursuant to the RFP; and

WHEREAS, the parties wish to eliminate the deadlines and time constraints currently contained in the Agreement,

NOW THEREFORE, in consideration of the premises and the mutual covenants and conditions hereinafter contained, the Parties agree as follows:

1. Incorporation of Recitals. The recitals set forth in this Agreement are true and correct and are incorporated herein by reference.
2. Extension of deadlines. The parties agree that review by the consultant hired pursuant to the RFP described herein shall not proceed until Developer provides written notice requesting that the proposal be delivered to the consultant and the analysis commenced.
3. Acknowledgment of legal review by bond counsel. Developer recognizes and acknowledges legal review by bond counsel had commenced prior to delivery of the updated proposal on May 13, 2021 and the fees for legal review continue to accrue. Nothing herein limits the ability to expend funds provided to the County via the Agreement for legal and bond counsel review.
4. All other provisions remain in effect. All other provisions of the Agreement shall remain in full force and effect.

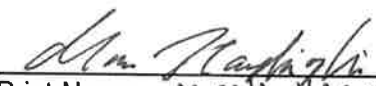
In witness whereof, this Agreement has been duly executed by the Parties as of the day and year first above written.

DEVELOPER:

TWO WITNESSES:

DAD 1300 N ATLANTIC COCOA, LP, a
Delaware limited partnership

General Partner
DAD 1300 N Atlantic Cocoa GP, LLC


Print Name: MONA RAGHIGAH

Alexis

Print Name: Alexis Machado

[Signature]
Name: Carlos Rodriguez
Managing Member
Its: Authorized Signatory

STATE OF FLORIDA
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 21st day of May, 2021 by Carlos Rodriguez, as Authorized Signatory of **DAD 1300 N ATLANTIC COCOA, LP**, a Delaware limited partnership, who executed the foregoing instrument and acknowledged before me that he executed the same for the purposes therein expressed and who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

(NOTARY SEAL)



[Signature]
Notary Public Signature

Kristin L. Espinoza
(Name typed, printed or stamped)

[SIGNATURE PAGE TO FOLLOW]

COUNTY:

COUNTY OF BREVARD, FLORIDA

By: Frank Abbate

Frank Abbate, County Manager

Elm Bayne
Assistant County Attorney

STATE OF FLORIDA

COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 24th May day of April, 2021, by Frank Abbate as County Manager of the County of Brevard, Florida, on behalf of such County. He/She ☒ is personally known to me or ☐ has produced _____ as identification.

(NOTARY SEAL)



Notary Public Signature

J Bayne
(Name typed, printed or stamped)

In witness whereof, this Agreement has been duly executed by the Parties as of the day and year first above written.


DEVELOPER:

TWO WITNESSES:

**DAD 1300 N ATLANTIC COCOA, LP, a
Delaware limited partnership**


Print Name: Alexis Machado

General Partner
DAD 1300 N Atlantic Cocoa GP, LLC


Print Name: Kristin L. Espinoza


Name: Carlos Rodriguez
Marfaging Member
Its: Authorized Signatory

STATE OF FLORIDA
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 20th day of April, 2021 by Carlos Rodriguez as Authorized Signatory of **DAD 1300 N ATLANTIC COCOA, LP**, a Delaware limited partnership, who executed the foregoing instrument and acknowledged before me that he executed the same for the purposes therein expressed and who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

(NOTARY SEAL)




Notary Public Signature

Kristin L. Espinoza
(Name typed, printed or stamped)

[SIGNATURE PAGE TO FOLLOW]

COUNTY:

ATTEST:

By: 

Rachel Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 

Rita Pritchett, Chair

As approved by the Board on
April 20, 2021

APPROVED AS TO FORM AND
LEGALITY FOR THE USE AND
RELIANCE OF THE COUNTY OF
BREVARD, FLORIDA, ONLY

April 20, 2021



Assistant County Attorney

COUNTY:

ATTEST:

By: 

Rachel Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 

Rita Pritchett, Chair

As approved by the Board on
April 20, 2021

APPROVED AS TO FORM AND
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BREVARD, FLORIDA, ONLY

April 20, 2021

Assistant County Attorney

EXHIBIT "A" LEGAL DESCRIPTION

CFN 2016206490, OR BK 7736 Page 1956, Recorded 10/24/2016 at 08:29 AM, Scott Ellis, Clerk of Courts, Brevard County Doc. D: \$161000.00

SPECIAL WARRANTY DEED

THIS INSTRUMENT PREPARED BY:

Hunton & Williams LLP
1445 Ross Avenue, Suite 3700
Dallas, Texas 75202
Attn: Daryl Robertson, Esq.

UPON RECORDING RETURN TO:

Stewart Title Company
3402 W. Cypress Street
Tampa, Florida 33607
Attn: Melanie Johnson

SPECIAL WARRANTY DEED

STATE OF FLORIDA §
 §
COUNTY OF BREVARD §

KNOW ALL MEN BY THESE PRESENTS:

THAT, LSREF ORANGE (COCOA), LLC, a Delaware limited liability company ("Grantor"), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which consideration are hereby acknowledged, has Granted, Sold, and Conveyed, and by these presents does Grant, Sell, and Convey, unto DAD 1300 N ATLANTIC COCOA, LP, a Delaware limited partnership ("Grantee"), having an address of 255 Alhambra Circle, Suite 760, Coral Gables, Florida 33134, all that real property situated in the County of Brevard, State of Florida, and more particularly described on Exhibit A attached hereto and made a part hereof for all purposes, together with all improvements and related amenities located in and on such real property, and all of Grantor's right, title and interest, if any, in and to (i) any land lying in the bed of any street, road, highway or avenue, open or proposed, public or private, in front of or adjoining any part of such real property to the center-line thereof, (ii) all strips and gores adjacent to such real property, (iii) all oil, gas, mineral and air rights appurtenant to such real property, and (iv) any easements, tenements, hereditaments, rights-of-way, development rights, entitlements and unused densities appurtenant to such real property (collectively, the "Property").

This Deed is made and accepted expressly subject to the matters set forth in Exhibit B attached hereto and made a part hereof for all purposes (the "Permitted Encumbrances").

TO HAVE AND TO HOLD the Property, subject to the Permitted Encumbrances, together with all and singular the rights and appurtenances belonging in any way to the Property, unto the said Grantee, its successors and assigns forever, and Grantor binds itself and its successors and assigns to warrant and forever defend all and singular the Property, subject to the Permitted Encumbrances, to Grantee, its successors and assigns against every person lawfully claiming or to claim all or any part of the Property, by, through, or under Grantor, but not otherwise.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Grantor has executed this Deed to be effective as of the ___ day of October, 2016.

Signed, sealed and delivered in the presence of these witnesses:

Witness: Patrice A. Bradshaw
Print Name: PATRICE A. BRADSHAW

Witness: Janet Reddy
Print Name: JANET REDDY

GRANTOR:

LSREF ORANGE (COCOA), LLC,
a Delaware limited liability company

Monica Knake
Monica Knake, Manager

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

The foregoing instrument was acknowledged before me this 17 day of October, 2016, by Monica Knake, as Manager of LSREF ORANGE (COCOA), LLC, a Delaware limited liability company, on behalf of the limited liability company, who is personally known to me or who has produced a Texas driver's license as identification.



Jonnie L. Callahan
Notary Public
Print Name: JONNIE L. CALLAHAN
My Commission Expires: 12-31-2018

EXHIBIT A

Legal Description

PARCEL I

BLOCK THIRTEEN (13), LESS THAT PORTION OF LOTS EIGHT (8) AND NINE (9) OF SAID BLOCK 13 LYING WITHIN THE RIGHT OF WAY FOR STATE ROAD A-1-A; BLOCK FOURTEEN (14); AND ON THE SOUTH ONE-HALF (S 1/2) OF A CLOSED STREET RUNNING FROM STATE ROAD A-1-A EAST TO THE EAST LINE OF BLOCK 14, PROJECTED, ORIGINALLY NAMED LAUREL AVENUE, WHICH SEPARATED BLOCKS ELEVEN (11) AND TWELVE (12) FROM BLOCKS THIRTEEN (13) AND FOURTEEN (14); THAT PORTION OF BANKS STREET EXTENDING FROM THE SOUTH LINE OF BLOCKS THIRTEEN (13) AND FOURTEEN (14) TO THE NORTH LINE OF THE SOUTH ONE-HALF (S 1/2) OF CLOSED LAUREL AVENUE; AND THE ALLEY SEPARATING LOTS ONE (1) THROUGH FIVE (5) INCLUSIVE FROM LOTS SIX (6) AND FIFTEEN (15) IN BLOCK 14, ALL ACCORDING TO THE PLAT OF SEA CREST BEACH SUBDIVISION, AS RECORDED IN PLAT BOOK 3, PAGE 3 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THE STREET KNOWN AS LAUREL AVENUE AND BANKS STREET AND THE ALLEY ABOVE DESCRIBED HAVING BEEN CLOSED BY A RESOLUTION OF THE COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA.

PARCEL II

ALL OF BLOCK FIFTEEN (15), LESS THAT PART OF LOTS EIGHT (8) AND NINE (9), LYING WITHIN THE RIGHT OF WAY OF A-1-A; AND ALL OF BLOCK SIXTEEN (16), EXCEPT LOTS ONE (1), TWO (2), FOUR (4), AND FIVE (5), AND LESS THE EASTERLY 24 FEET OF LOTS SIX (6) AND FIFTEEN (15), PER OFFICIAL RECORDS BOOK 514, PAGE 924, ACCORDING TO THE PLAT OF SEA CREST BEACH, AS RECORDED IN PLAT BOOK 3, PAGE 3 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

PARCEL III

LOTS ONE (1) AND TWO (2), BLOCK SIXTEEN (16), SEA CREST BEACH SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 3, PAGE 3 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

PARCEL IV

THAT PORTION OF HOLLY AVENUE AS SHOWN ON PLAT OF SEA CREST BEACH, PLAT BOOK 3, PAGE 3 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LYING EAST OF THE EAST RIGHT OF WAY OF A-1-A WHICH WAS VACATED BY RESOLUTION NO. 80-34 BY THE CITY COMMISSIONER OF THE CITY OF COCOA BEACH, FLORIDA, DATED OCTOBER 16, 1980.

Being more particularly described as follows:

All of Blocks 13, 14, and 15, and a portion of Block 16, the South one-half of Vacated Laurel Avenue, Vacated Banks Street lying between Blocks 13 and 14 and also lying between Blocks 15 and 16, the Vacated Alley in Block 14 and that portion of Holly Avenue vacated by the City of Cocoa Beach in Resolution No. 80-34, all in SEA CREST BEACH according to the plat thereof as recorded in Plat Book 3, Page 3 of the Public Records of Brevard County, Florida, and lying within Section 3, Township 25 South, Range 37 East, Brevard County, Florida, being more particularly described as follows:

Commence at the Southwest corner of Lot 9, in said Block 15; thence N89°38'11"E, along the South line of said Block 15, a distance of 25.01 feet, to the East right of way line of State Road A-1-A (North Atlantic Avenue) and the POINT OF BEGINNING of the herein described parcel; thence N03°03'58"E, along said East right of way line, a distance of 280.00 feet, to the North line of said Block 15; thence N89°37'39"E, along said North line, a distance of 50.00 feet, to the West line of that portion of Holly Avenue vacated by City of Cocoa Beach Resolution No. 80-34 as recorded in Official Records Book 2266, page 178 through 180; thence N03°00'02"E, along said West line, a distance of 49.98 feet, to the South line of said Block 13; thence S89°37'39"W, along said South line, a distance of 50.00 feet, to said East right of way line of State Road A-1-A; thence N03°03'58"E, along said East right of way line, a distance of 307.27 feet, to the centerline of Laurel Avenue vacated by the Brevard County Commissioners by resolution recorded in Deed Book 355, Page 619; thence N89°38'48"E, along the centerline of said Laurel Avenue, a distance of 1,183.30 feet, to the Erosion Control Line, created by resolution recorded in Official Records Book 4242, Page 492, and maps recorded in Survey Book 8, Pages 38 through 56; thence the following 4 courses along said Erosion Control Line: (1) S05°47'36"W, a distance of 68.84 feet; (2) S05°18'05"W, a distance of 273.29 feet; (3) S05°36'49"W, a distance of 131.77 feet; (4) S04°41'55"W, a distance of 52.14 feet, to the South line of Lot 3 in said Block 16; thence S89°34'42"W, along said South line, a distance of 469.74 feet, to the Southwest corner of said Lot 3; thence N03°29'13"E, along the West line of Lots 1, 2, and 3 in said Block 16, a distance of 168.06 feet, to the South line of said Holly Avenue; thence S89°36'54"W, along said South line, a distance of 40.09 feet, to the West line of the East 24.00 feet of Lots 15 and 16 in said Block 16; thence S03°28'56"W, the West line of the East 24.00 feet of Lots 15 and 16 in said Block 16, a distance of 280.33 feet, to the South line of said Block 16; thence S89°38'11"W, along the South line of said Blocks 15 and 16, a distance of 651.33 feet, to the POINT OF BEGINNING.

EXHIBIT B

Permitted Encumbrances

1. Any matters which a current, accurate survey of the Property would reveal.
2. Taxes and assessments for the year 2016 and subsequent years, which are not yet due and payable.
3. All matters shown on the plat recorded in Plat Book 3, Page 3, of the Public Records of Brevard County, Florida.
4. Easement granted to Florida Power & Light Company, as more fully set forth in the document recorded in Official Records Book 1631, Page 628, as affected by Partial Release Easement recorded in Official Records Book 6200, Page 1723, of the Public Records of Brevard County, Florida.
5. Easement granted to The City of Cocoa, Florida, as more fully set forth in the document recorded in Official Records Book 2496, Page 945, of the Public Records of Brevard County, Florida.
6. Easement granted to Florida Power & Light Company, as more fully set forth in the document recorded in Official Records Book 2379, Page 1134, of the Public Records of Brevard County, Florida.
7. Public Ingress & Egress Access Easement granted to City of Cocoa Beach, as more fully set forth in the document recorded in Official Records Book 4121, Page 1980, of the Public Records of Brevard County, Florida.
8. Public Ingress & Egress Access Easement granted to City of Cocoa Beach, as more fully set forth in the document recorded in Official Records Book 4121, Page 1977, of the Public Records of Brevard County, Florida.
9. Public Ingress & Egress Access Easement granted to City of Cocoa Beach, as more fully set forth in the document recorded in Official Records Book 4121, Page 1974, of the Public Records of Brevard County, Florida.
10. Public Utility Easement granted to City of Cocoa Beach, as more fully set forth in the document recorded in Official Records Book 4121, Page 1971, of the Public Records of Brevard County, Florida.
11. Public Ingress & Egress Access Easement granted to City of Cocoa Beach, as more fully set forth in the document recorded in Official Records Book 4121, Page 1968, of the Public Records of Brevard County, Florida.
12. Resolution No. 99-30 recorded in Official Records Book 4121, Page 1966, of the Public Records of Brevard County, Florida.

13. Beach Storm Drainage Reduction Easement, as more fully set forth in the document recorded in Official Records Book 4070, Page 2748, of the Public Records of Brevard County, Florida.
14. Easement granted to Florida Power & Light Company, as more fully set forth in the document recorded in Official Records Book 2680, Page 2252, as affected by Partial Release Easement recorded in Official Records Book 6200, Page 1723, of the Public Records of Brevard County, Florida.
15. Grant of Easement for Reuse Waterline Easement granted to the City of Cocoa Beach, as more fully set forth in the document recorded in Official Records Book 3485, Page 2914, of the Public Records of Brevard County, Florida.
16. The rights, if any, including but not limited to easements or implied dedications of the public to use as a public beach or recreational area any part of the land lying between the body of water abutting the subject property and the natural line of vegetation, bluff, extreme high water line or other apparent boundary line separating the publicly used area from the upland private area.
17. Those portions of the property herein described comprising artificially filled land in what was formerly navigable waters, are subject to any and all rights of the United States government arising by reason of the United States government's control over navigable waters in the interest of navigation and commerce.
18. Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the Property, including submerged, filled and artificially exposed lands accreted to such lands.
19. The inalienable rights of the public to use the navigable waters. The rights of the state and the United States to regulate the use of the navigable waters.
20. The rights of transient guests, as guests only, of the Property in possession of the Property (or any portion thereof).
21. Any and all laws and ordinances (including zoning ordinances and regulations) affecting the Property.
22. Terms and conditions of the following existing lease(s), and all rights of lessee(s) and any parties claiming the lessee(s) under such lease(s):
 - a. Commercial Lease commencing October 1, 2011 between Cool Breeze Resort Specialties, Inc., as Tenant, and LSREF Orange Ops (Cocoa), LLC, as Landlord, relating to gift shop.
 - b. Space Lease commencing May 15, 2009 between Cool Breeze Resort Specialties, Inc., as Lessee, and Intercontinental Hotels Group Resources, Inc., as manager and authorized agent of owner BHR Operations, LLC, as Lessor.

23. Subject to Brevard County Coastal Construction Control Line as shown on survey prepared by Allen Engineering Inc. dated January 11, 2007 and last revised September 3, 2009 as Job #020165 and any loss or damages due to some of the improvements on subject property lying beyond said Coastal Construction Control Line.
24. Subject to Brevard County Erosion Control Line as shown in that certain instrument recorded in Official Records Book 4242, Page 492, of the Public Records of Brevard County, Florida.
25. Easement granted to Florida Power & Light Company, as more fully set forth in the document recorded in Official Records Book 6177, Page 592, of the Public Records of Brevard County, Florida.

EXHIBIT “B”

PROJECT

The Project consists of a state-of-the-art convention center and multi-level parking garage. The convention center will have approximately 100,000 square feet of indoor and outdoor meeting and event space with two ballrooms, six banquet and board rooms, pre-function space, terraces, and an outdoor event lawn. The garage is contemplated to be a six-level structure with approximately 800 parking spaces for valet and self-parking. The Project will be located at 1300 N. Atlantic Avenue, Cocoa Beach on 15.7 acres and be developed concurrently with the Developer's proposed 4.5-star, 502-key Westin Cocoa Beach Resort & Spa. The combined cost of the Project and the Westin hotel is anticipated to be over \$300 million. Developer intends to begin construction of the Project in Q4 2021 and open the combined facilities in early 2024.

STRUCTURE

Developer desires to create a “public private partnership” with the County for the development, financing, construction, and management of the Project, whereby:

1. Developer, at no cost to the County, would provide the land to develop the Project through a long-term lease.
2. The County, through an entity to be determined (e.g., an existing government agency, 63-20 corporation, or other), would own the Project and issue tax-exempt revenue bonds to finance its development.
3. Developer would develop, construct, and, upon opening, manage the Project on behalf of the County.
4. All net revenue generated from the Project and Tourism Development Taxes (TDT) generated solely from the adjacent to-be developed Westin hotel will be pledged to satisfy the annual Project debt service. This, along with the leasehold mortgage, will be the sole collateral.
5. After all operating expenses and required reserves of the Project (including Project debt service) are paid, surplus cash flow from the Project will be split evenly between the County and Developer.
6. Issuance of the bonds will be on a non-recourse basis, will not be a general obligation of the County, and there will be no risk to any revenues or credit ratings for the County.

PROJECT EVALUATION

To facilitate the County's legal, financial and economic evaluation of the Project and proposed Structure, Developer agrees to fund the necessary Analysis and provide all relevant Project information to support these efforts. In addition, Developer has commissioned CH Johnson & Company to provide a comprehensive Economic Impact and Market Study, a copy of which will be supplied to the County upon finalization, likely early part of next week. For the Developer to meet its intended timeline without incurring material and costly delays, timing to complete the Analysis is of the essence.

EXHIBIT “C”

Community Economic Development Public – Private Partnership Evaluation

STATEMENT OF WORK

Introduction of the Public – Private Partnership

The County intends to retain a Contractor to review the Developer proposed public – private partnership between Driftwood Development Partners (Developer) and Brevard County, Florida (County) for the Developer to develop, construct, and manage a Brevard County, Florida Convention Center and associated parking garage (collectively, the “Facilities”) located on the Developer’s property in conjunction with a Westin Hotel and Resort in Cocoa Beach, Florida.

The Developer will develop the County convention center and garage in conjunction with the development of a 500-room luxury beach front hotel to be operated under the Westin flag under a previously negotiated franchise agreement. The Developer will be paid a development fee consistent with market rates.

A Not-for-Profit Corporation (Corporation) will be created by the County and the Corporation will own the Facilities and issue the Revenue Bonds to fund the Facilities. The Facilities will be located on land leased from the Developer for \$1 a year. The land lease will be a minimum of 120 percent (36 years assuming a 30-year Revenue Bond) of the term of the Bonds.

The Corporation will enter into a Qualified Management Agreement (QMA) with the Developer for the term of the land lease for the management of the Facilities. The QMA will have a fixed management fee consistent with market rates, to include in operating costs of the Facilities and an incentive fee equal to 50 percent of the surplus funds on deposit each year. The Corporation will have the right to replace the QMA for non-performance.

The Facilities will be funded through an \$80 million tax-exempt Revenue Bond, pledging the County’s Tourist Development Tax, net of collection fees, generated from the adjacent Westin Hotel’s room night revenues and assignment of the leasehold mortgage.

The Facilities will consist of a state-of-the-art convention center and parking garage. The convention center will be approximately 100,000 square feet of indoor/outdoor meeting and event space with two ballrooms, six banquet and board rooms, pre-function space, indoor event space and outdoor lawn, two terraces and outdoor banquet areas. The garage will be a five-level structure (781 valet/self-parking spaces).

Scope of Services

The Contractor shall perform all work and provide all services (and items incidental thereto) set forth herein and in compliance with the Performance Standards / Quality Requirements of Exhibit A.

Contractor shall provide the County with an economic analysis of Driftwood Development Partner's (Developer) proposal, attached as Exhibit B, for a public – private partnership for the Developer to construct a convention center that will be approximately 100,000 square feet of indoor/outdoor meeting and event space with two ballrooms, six banquet and board rooms, pre-function space, indoor event space and outdoor lawn, two terraces and outdoor banquet areas and a five-level garage structure (781 valet/self-parking spaces) ("Facilities").

The Contractor shall provide Economic Development Analysis services more particularly described as follows:

1. Review and evaluate the information provided to the County by the Developer that aids in the County's understanding the proposed Facilities such as: tourism impact including potential visitor spending, type of industries that would utilize the Facilities, effect of occupancy and revenue on other properties in the area, market data, appraisals, engineering data, land development regulations, surveys, site constraint and opportunities.
2. Perform an evaluation(s) of the Developer's team experience and capacity to complete a proposed 500-room luxury beach front hotel in conjunction with the County's Facilities, which will be funded through the County's Tourist Development taxes, net collection costs within established budget.
3. Review and evaluate the proposed project financials and supporting documentation including:
 - a. Develop pro-forma of the revenues, expenses of the Facilities to determine if the Facilities would generate sufficient revenues to fund the Facilities' annual debt services costs, operation, maintenance, capital repair and maintenance, and management fees.
 - b. Provide a range the County or Nonprofit Corporation may expect to pay for a Qualified Management Agreement (QMA) to manage the Facilities.
 - c. Provide a range of industry standards for incentives and penalties and related benchmarks the County or the Nonprofit Corporation may consider in the QMA related to the operations of the Facilities.
 - d. Analyze the types of nonprofit organizations that the County may consider creating for the ownership of the Facilities. Provide examples of the types of nonprofit organizations that similar counties have created in Florida and the United State for this type of ownership.
 - e. Analyze whether the proposal is the best approach for the County based on statutes, Brevard County Charter and financial impacts.

4. Analyze the Developer's proposal to determine if an \$80 million budget is sufficient for the Developer to construct a convention center to include market rate for development fee, an approximately 100,000 square feet of indoor/outdoor meeting and event space with two ballrooms, six banquet and board rooms, pre-function space, indoor event space and outdoor lawn, two terraces and outdoor banquet areas, a parking garage five-levels and 781 valet/self-parking spaces, debt service reserves, capital interest, operating reserves, and capital repair and maintenance reserves.
5. Contractor shall provide Economic Development Analysis Technical services as more particularly described and recommendations for the following:
 - a. Type of nonprofit organization, if any, the County may consider creating for the ownership of the Facilities while debt is outstanding
 - b. Agreement between the County and the nonprofit organization
 - c. Lease Agreements with the landowner
 - d. Suggested reserve for operation, and capital repair and maintenance
 - e. Lease and leasehold interest agreements
6. Advise the County on the economic impact to Brevard County for the request of public assistance, and development of County Facilities in conjunction with 500-room luxury beach front hotel.
7. Assist the County in drafting documents, terms, conditions for potential development. This may include, but is not limited to type of nonprofit organization, if any, to create that will own the Facilities, lease agreements, liens, claw-backs, purchase agreements, incentives, and conditions necessary for a development agreement, transfer of ownership once the debt is fully paid on the Facilities.
8. Assess all risks, including financial, associated with the Developer's proposal for a public – private partnership and provide guidance regarding solutions to mitigate the County's potential risk.
9. Assist the County in evaluation and communication of the public benefits of a proposed public – private partnership project. Considerations may include fiscal impacts, economic impacts, community impacts, and other positive externalities resulting from the development.

EXHIBIT A
PERFORMANCE STANDARDS / QUALITY REQUIREMENTS

In addition to those requirements set forth in the Statement of Work attached and incorporated as Exhibit A to the Contract, all Services (and items incidental thereto) and work provided by the Contractor shall conform to the following:

Contractor shall:

1. Respond to phone calls or emails requesting information from County staff within two (2) business days of receipt of phone call or email.

2. Provide bi-weekly progress reports that contain a narrative and listing of services provided for each project during that reporting period, summary of hours, and listing of associated expenses such as travel, incidentals, etc.
3. Follow up with designated County staff responsible for the project, ensuring dates are kept and project remains on schedule.
4. Provide adequate staffing for each assigned project.