

F. Consent Agenda - Parks and Recreation Department
ITEM 9.



AGENDA REPORT
October 9, 2018

Approval, Re: First Amendment to Brevard Zoo Linear Park Easement
Agreement (D4)

SUBJECT:

Execute the First Amendment to Brevard Zoo Linear Park Easement Agreement - District 4

FISCAL IMPACT:

The East Coast Zoological Society (Zoo) will provide regular maintenance services to the Park at their expense.

DEPT/OFFICE:

Parks and Recreation

REQUESTED ACTION:

It is requested the Board of County Commissioners approve the First Amendment to Brevard Zoo Linear Park Easement Agreement and authorize the Chair to execute the agreement and authorize the County Manager to execute necessary budget change requests.

SUMMARY EXPLANATION and BACKGROUND:

The Brevard Zoo Linear Park (Park) project was approved by the voters in the 2000 South Brevard Recreation Special District Bond Referendum. Phase I of the Park, 10' elevated boardwalk approximately 1.1 miles in length, fifty-four (54) paved parking spaces and trailhead parking with bicycle racks, was completed in 2014 and has been maintained by the Zoo.

Execution of the First Amendment to Brevard Zoo Linear Park Easement Agreement provides for the Zoo to grant certain easements to the County for the construction of Phase II of the Park and provide regular maintenance services. The Zoo will provide maintenance services to the County for the Park, at no cost to the County, for a period of ten years and the term may be extended for one additional ten year period. The Zoo will maintain access to the Park as a public park without fee or charge.

If the Park is no longer used or abandoned by the County, the easements will revert back to the Zoo.

ATTACHMENTS:

Description

- **First Amendment to Brevard Zoo Linear Pk Easement Agrmt Final**
- **First Amendment to Brevard Zoo Linear Park Easement Agreement RM and CAO approval**

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT REVIEW AND APPROVAL FORM

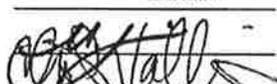
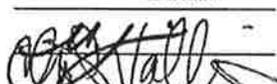
SECTION I - GENERAL INFORMATION

1. Contractor: East Coast Zoological Society	
2. Fund/Account #: 1019/250410	3. Department Name: Parks & Recreation
4. Contract Description: First Amendment to Brevard Zoo Linear Park Easement Agreement	
5. Contract Monitor: Melissa Renninger	7. Contract Type: USE AGREEMENT
6. Dept/Office Director: Mary Ellen Donner	

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

COUNTY OFFICE	APPROVAL		SIGNATURE	DATE
	YES	NO		
User Agency	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

SECTION III - REVIEW AND APPROVAL TO EXECUTE

COUNTY OFFICE	APPROVAL		SIGNATURE	DATE
	YES	NO		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Renninger, Melissa <small>Digitally signed by Renninger, Melissa Date: 2018.09.24 11:37:38 -0400</small>	09/24/2018
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>		9-24-2018
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>		9/24/18

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM DATABASE REQUIRED FIELDS	Complete ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status	<input type="checkbox"/>
Contract Title	<input type="checkbox"/>
Contract Type	<input type="checkbox"/>
Contract Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date	<input type="checkbox"/>
Contract Effective Date	<input type="checkbox"/>
Contract Expiration Date	<input type="checkbox"/>
Contract Absolute End Data (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Initial Contract Form with County Attorney/ Risk Management Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>



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

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

October 10, 2018

M E M O R A N D U M

TO: Mary Ellen Donner, Parks and Recreation Director

RE: Item F.9., Approval of First Amendment to Brevard Zoo Linear Park Easement Agreement

The Board of County Commissioners, in regular session on October 9, 2018, approved the First Amendment to Brevard Zoo Linear Park Easement Agreement; authorized the Chair to execute the Agreement; and authorized the County Manager to execute necessary budget change requests. Enclosed are two fully-executed copies of the Agreement.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/cmw

Encls. (2)

cc: Finance
Budget
Contracts Administration

**FIRST AMENDMENT
TO BREVARD ZOO LINEAR PARK
EASEMENT AGREEMENT**

THIS FIRST AMENDMENT entered into this 9 day of October, 2018, by and between the Board of County Commissioners of Brevard County, Florida, hereinafter referred to as "County", and the East Coast Zoological Society, Inc., hereinafter referred to as "Zoo."

WHEREAS, the County and Zoo previously entered into that certain Brevard Zoo Linear Park Easement Agreement on July 10, 2012, hereinafter referred to as the "Agreement," wherein the Zoo agreed to grant certain easements to the County for the construction of the Brevard Zoo Linear Park, hereinafter referred to as the "Park," and further agreed to provide maintenance services to the Park; and

WHEREAS, the easement granted by the Zoo to the County is recorded in the Official Public Records of Brevard County, Florida, Book 6661, Page 2713; and

WHEREAS, the Phase I of the Park was completed in 2014 and has been maintained by the Zoo, in coordination with the County, since April 1, 2014; and

WHEREAS, Phase II of the Park is currently under construction in accordance with the construction plans prepared by Atkins, 11/27/2017 incorporated herein by this reference, and the Parties desire to amend the Agreement to address maintenance responsibilities for the Park upon completion of Phase 2.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, the Parties hereby agree as follows:

Section 1. Exhibit "A" is replaced with Amended Exhibit "A," attached and incorporated herein, which includes a depiction of both Phases 1 and 2 of the Park. All references to Exhibit "A" throughout the Agreement shall be replaced with Amended Exhibit "A."

Section 2. Paragraph 2. GRANT OF EASEMENTS TO COUNTY. Subparagraph (a) is amended to state:

(a) The Zoo hereby agrees to grant the nonexclusive perpetual easements and temporary construction easement to the County as set forth in that certain Grant of Easements and Agreement incorporated herein by this reference, for purposes of constructing Phase I the Park improvements described in the Construction Plans. In addition to the grant of easements, the Zoo agrees to provide maintenance services to the County for the Park, at no cost to the County, for a period of ten (10) years, beginning on April 1, 2014, (Phase 1), subject to the terms of this Agreement. The provision of maintenance services for Phase 2 shall begin after construction is completed and the County notifies the Zoo in writing that the Phase 2 is available for public use. The maintenance services term may be extended for one additional ten (10) year term by amendment of this Agreement at least thirty (30) days prior to the date of termination of the current term. Renewal of this Agreement shall be in writing and subject to the same terms and conditions of this Agreement. The grant of these easements by the Zoo and the acceptance by the County shall be subject to and strictly in accordance with the terms and conditions hereinafter set forth.

Section 3. Paragraph 9. MAINTENANCE OF IMPROVEMENTS: is amended to state:

(1) The Zoo shall begin maintenance services after construction of each Park phase is completed and the County notifies the Zoo in writing that the Park phase is available for public use. The Zoo understands that the County may construct additional phases of the Park in the future. There are no connections to adjacent neighborhoods planned for the first phase. The inclusion of any future phases in the maintenance of the Park will be addressed through a written amendment to this Agreement. "Maintenance" shall include: (1) once a week sweeping/cleaning of decking and pavement area, as needed, of dirt, trash, leaves, branches, trimming of encroaching vegetation, removal of foreign materials, spills and mildew; (2) replacement or repair of needed decking, handrails, boardwalk structure; (3) once a week safety checks of boardwalk, (i.e., secure hardware, correct protruding fasteners, screws & nails, pavement areas, gates and bollards (4) trash removal; and (5) other actions as needed to assure visitor safety. The Zoo agrees to maintain the following improvements at the prevailing industry standards at the Zoo's sole expense:

(a) ROADWAY

(b) TRAILHEAD- along with associated parking and bicycle racks.

(c) ADDITIONAL PARKING - fifty-four (54) paved parking spaces as overflow parking for the Park and Zoo.

(d) TRAIL BOARDWALK

(2) The Zoo may request assistance with repairs from the County for major or substantial repairs and after natural disasters or other destructive events.

(3) The Zoo will be responsible for weekly inspections of the bollards; however the County will be responsible for the cost of maintaining the bollards.

(4) The County is responsible for managing the graffiti in the tunnel under I-95. The Zoo will inspect the tunnel weekly and notify the County of any issues that should be promptly addressed.

Section 4. Paragraph 10. USE RESTRICTIONS. is amended to state:

Access to the North Trailhead from Wickham Road and gated trail access just north of the Pineda Interchange shall be available from 7:00 a.m. to 7:00 p.m. unless dusk comes earlier. The Zoo agrees to unlock and lock the gates at these points, daily, and maintain access to the public Park by the easement without any fee or charge. The County will provide the Zoo with keys to the lock boxes, which will contain keys to the gates and bollards. This Agreement shall not prejudice the operation of the Zoo in any way. It is understood and agreed that the continued and undisturbed operation of the Zoo is paramount to the Zoo. As such, the County may agree to alter the operation of the Park to address the needs of the Zoo, in addition to the restrictions specified below.

Section 5. All other terms and conditions of the Agreement which are incorporated herein by this reference, not inconsistent with the provisions of this First Amendment, shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties the have caused this First Amendment to be executed by its duly authorized representatives as of the last date below.

Executed this 25 day of SEPTEMBER, 2018.

EAST COAST ZOOLOGICAL SOCIETY
OF FLORIDA, INC.

Signed, sealed and delivered
in the presence of:

By: *Frank J. Fieseler*
FRANK J FIESELER, President
CEO, COO

Cheri Purnell
Witness



Cheri Purnell
Print Name:
Cheri Purnell
Witness

Charlotte Briann Richards
Print Name

(Notarized on previous page)

STATE OF FLORIDA
COUNTY OF BREVARD

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 2018 by _____ who is personally known to me or has produced identification.

My commission expires:

Notary Public

ATTEST:



Scott Ellis, Clerk

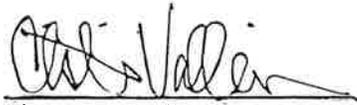
BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



Rita Pritchett, Chair

As approved by the Board on Oct. 9 2018

Reviewed for legal form and content

By: 
Christine Valliere, Assistant County Attorney

