

Meeting Date
11/17/2015



AGENDA	
Section	CONSENT
Item No.	II.B.1

**AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**

SUBJECT:	APPROVAL RE: MEMORANDUM OF UNDERSTANDING BETWEEN BREVARD COUNTY AND THE CITY OF COCOA FOR THE WEST CANAVERAL GROVES WATERLINE PROJECT (NO FISCAL IMPACT)
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DEPT/OFFICE:	Community Services Group / Housing & Human Services
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Requested Action:

It is requested that the Board of County Commissioners (BOCC) approve the attached Memorandum of Understanding (MOU) between Brevard County (County) and the City of Cocoa (City) detailing the responsibilities of both parties as it relates to the West Canaveral Groves Waterline Project. In addition, it is requested that the Chairman be given authorization to sign any future amendments after review and approval of Risk Management, the County Attorney and County Manager's Office.

Summary Explanation & Background:

As directed by the Board of County Commissioners, in regular session on July 22, 2014, an application for a Section 108 Loan was submitted to the Department of Housing and Urban Development (HUD) for the West Canaveral Groves Water Line Project. On September 23, 2015, Brevard County was notified of funding approval. This MOU sets forth the mutual understandings between the County and the City regarding the funding, design, construction, operation, and maintenance of the new water main and its connection to the City's potable water utility system.

Upon completion of the West Canaveral Groves Project to the satisfaction of the City, the County will transfer to the City, by bill of sale, title to the utility infrastructure free and clear of all liens and encumbrances. The City will accept ownership of, operation and maintenance responsibilities for, the potable water infrastructure constructed as part of the waterline, including but not limited to: public lines, meters, valves, and hydrants. Services provided by the City, to the residents of the West Canaveral Groves area, shall be subject to applicable City policies and regulations.

Fiscal Impact: FY 15/16 – The approval of this action will have no fiscal impact to the general fund. Funds secured by the Section 108 Loan will be utilized to fund the Waterline Project. Community Development Block Grant funds will be utilized to repay the Section 108 Loan.

FY 16/17 – There will be no fiscal impact to the general fund. Funds secured by the Section 108 Loan will be utilized to fund the Waterline Project. Community Development Block Grant funds will be utilized to repay the Section 108 Loan.

Contact: Chenita Joiner, Community Development and Resource Manager (633-2007) *CJ*

Clerk to the Board Instructions: N/A

Exhibits Attached: BC-20

Contract /Agreement (If attached): Reviewed by County Attorney Yes No PR N/A

County Manager <i>[Signature]</i>	Assistant County Manager	Department Director / Extension <i>[Signature]</i>
Stockton Whitten	Venetta Valdengo <i>Venetta Valde</i>	Ian Golden, Director (X52007)



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

Telephone: (321) 637-2001
Fax: (321) 264-6972

November 18, 2015

M E M O R A N D U M

TO: Ian Golden, Housing and Human Services Director Attn: Chenita Joiner

RE: Item II.B.1., Memorandum of Understanding with City of Cocoa for the West Canaveral Groves Waterline Project

The Board of County Commissioners, in regular session on November 17, 2015, executed Memorandum of Understanding (MOU) with City of Cocoa detailing the responsibilities of both parties as it relates to the West Canaveral Groves Waterline Project; and authorized the Chairman to execute any future amendments, after review and approval of Risk Management, County Attorney, and County Manager. Enclosed is the executed Memorandum of Understanding.

Upon execution by the City of Cocoa, please return the fully-executed Memorandum of Understanding to this office for inclusion in the official minutes.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Etheridge, Deputy Clerk

Encl. (1)

cc: Contracts Administration
Finance
Budget

**MEMORANDUM OF UNDERSTANDING
BETWEEN BREVARD COUNTY AND THE CITY OF COCOA**

This Memorandum of Understanding (“MOU”) is entered into by and between Brevard County, a political subdivision of the State of Florida (“County”), and the City of Cocoa, a Florida municipal corporation (“City”).

WHEREAS, the County owns and maintains certain public rights-of-way referred to as Satellite Boulevard, Cherven Avenue, Magee Drive and Palmetto Avenue located in unincorporated Brevard County in the West Canaveral Groves Neighborhood; and

WHEREAS, historically, all potable water systems within this neighborhood have been private wells and systems owned and operated by property owners; and

WHEREAS, recent studies of the private wells in the neighborhood have evidenced water quality concerns; and

WHEREAS, further, fire protection for the neighborhood is desired to improve public safety; and

WHEREAS, the City owns and operates water mains in close proximity to West Canaveral Groves, which would accommodate the connection of the new potable transmission water main to the City’s existing utility system for the limited purpose of providing fire protection and potable water service to customers within the existing rights-of-way along Satellite Boulevard, Chevren Avenue, Magee Drive and Palmetto Avenue subject to the City’s applicable utility policies and regulations; and

WHEREAS, West Canaveral Groves is located within the City’s Water Franchise area; and

WHEREAS, the County and City desire to enter into this MOU to set forth their mutual understanding regarding the funding, design, construction, operation and maintenance of the new water main and its connection to the City’s potable water utility system.

NOW THEREFORE, THE COUNTY AND CITY AGREE AS FOLLOWS:

1. **Recitals.** The parties agree that the foregoing recitals are true and correct and are hereby incorporated herein by this reference.
2. **Obligations of County.**
 - A. The County agrees to seek a Section 108 loan from the U.S. Department of Housing and Urban Development (“HUD”) or other County secured funding as needed, to fund the design and construction of the potable water facilities subject to this MOU.

B. Contingent upon the County's award of the Section 108 loan or other County secured funding as needed, the County shall at its sole expense, provide for the design and construction of water mains along Satellite Boulevard, Cherven Avenue, Magee Drive and Palmetto Avenue located in unincorporated Brevard County in West Canaveral Groves neighborhood ("West Canaveral Groves Project"). The size of the water main shall not exceed twelve inches (12").

C. The County shall be solely responsible for preparing the budget for the West Canaveral Groves Project.

D. The West Canaveral Groves Project shall be subject to the City's Utility Extension Policy & Procedure set forth in the City of Cocoa Utilities Handbook ("Handbook"). The design and construction of the West Canaveral Groves Project shall be consistent with the most current version of the City's Technical Provisions and Standard Detail Sheet, and any and all plans shall be reviewed and approved by the City pursuant to the procedures and requirements of the Handbook.

E. The County shall be subject to and responsible for payment of any applicable fees and charges related to the City's review, approval and acceptance of the West Canaveral Groves Project.

F. The County acknowledges and agrees that if reduced pressure backflow is required, that it will be installed consistent with the technical standards, procedures and other requirements of the City.

G. Upon completion of the West Canaveral Groves Project to the satisfaction of the City; the County shall transfer to the City, by bill of sale, title to the utility infrastructure free and clear of all liens and encumbrances and provide the City "as built" drawings of said infrastructure certified by a Professional Engineer registered in the State of Florida.

3. **Obligations of the City.** The City agrees that upon completion of the construction of the West Canaveral Groves Project to the City's satisfaction, that it shall, consistent with the terms of this MOU, accept ownership of, and operation and maintenance responsibilities for, the potable water infrastructure constructed as part of the West Canaveral Groves Project, including, but not limited to, public lines, meters, valves and hydrants. Any potable water service provided by the City as a result of the West Canaveral Groves Project shall be subject to applicable City policies and regulations including, but not limited to, the Handbook and the City of Cocoa Code. No provision of this Agreement shall be construed or interpreted as requiring the City to design, permit, construct, or accept ownership of, any additional water mains or infrastructure.

4. **Duty to Act in Good Faith.** The County and City agree to proceed in good faith consistent with the terms of this MOU. The County shall proceed toward the construction of the

West Canaveral Groves Project as rapidly as is feasible based on when funds are made available through the Section 108 loan or other County secured funding as needed.

5. **Entire Agreement.** This MOU represents the entire understanding and agreement of the parties regarding the West Canaveral Groves Project. There shall be no modifications or amendments to this MOU unless such modifications or amendments are set forth in writing and approved and executed by both parties hereto.


6. **Indemnification and Hold Harmless.** To the extent permitted by law, each party agrees to indemnify and hold harmless the other party and the other party's employees, officers, and attorneys from and against all claims, losses, damages, personal injuries (including but not limited to death), or liability (including reasonable attorney's fees), which directly or indirectly arise out of, or results from their own acts or omissions and the acts or omissions of their employees, officers, and attorneys pursuant to this MOU. This paragraph shall survive termination of this MOU.

7. **Sovereign Immunity.** Notwithstanding any other provision set forth in this MOU, nothing contained in this MOU shall be construed as a waiver of the County's or the City's right to sovereign immunity under section 768.28, Florida Statutes, or other limitations imposed on either party's potential liability under the state or federal law. As such, neither party shall be liable under this MOU for punitive damages or interest for the period before judgment. Further, neither party shall be liable for any claim or judgment, or portion thereof, to any one person for more than two hundred thousand dollars (\$200,000.00), or any claim or judgement, or portion thereof, which when totaled with all other claims or judgments paid by the State or its agencies and subdivisions arising out of the same incident or occurrence, exceeds the sum of three hundred thousand dollars (\$300,000.00). This paragraph shall survive the termination of this MOU.

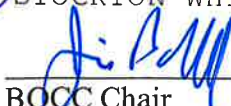
8. **General Liability and Other Insurances.** The parties shall each maintain in force at all times during the term of this MOU, a general liability insurance policy.

9. **Attorney's Fees.** In the event of any legal action to enforce the terms of this MOU, each party shall bear its own attorney's fees and costs.

Brevard County,
a political subdivision of Florida.




County Manager Date
STOCKTON WHITTEN



BOCC Chair Date
JIM BARRETT, CHAIRMAN

City of Cocoa,
a Florida municipal corporation.



City Manager Date

ATTEST:


SCOTT ELLIS, CLERK 11/17/15



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November 18, 2015

MEMORANDUM

TO: Ian Golden, Housing and Human Services Director Attn: Chenita Joiner

RE: Item II.B.1., Memorandum of Understanding with City of Cocoa for the West Canaveral Groves Waterline Project

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Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Etheridge, Deputy Clerk

Encl. (1)

cc: Contracts Administration
Finance
Budget

RECEIVED

NOV 23 2015

HOUSING/HUMAN SBRV

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT FORM

SECTION I

The following information must be completed on all new contracts submitted to the Board.

1. Contractor: City of Cocoa	
2. Fund/Account #:	Division Name: Housing and Human Services
4. Contract Description: Memorandum of Understanding	
5. Contract Monitor: Linda Graham	6. Mail Stop #: 82
7. Dept./Office Director: Ian Golden	8. Contract Type:
ACTION DATE: 10 days from entry	ACTION REQUIREMENT: Risk Management and County Attorney Review and Approval

SECTION II

The following departments must approve all contracts submitted to the Board:

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>INITIALS</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	✓	_____	CQ	8/5/15
Risk Management	_____	_____	_____	_____
County Attorney	✓	_____	BA	8/6/15

If any office denies approval, the package will be returned immediately to the User Agency.

NOTE: This form should be attached to all new contracts being submitted to the Board for approval. After the contract has been approved, the contract package, including this form, will go to the Clerk to the Board. The Clerk's office will return the Initial Contract Form to department for contract to be entered into the Contract Management System. See AO-29 for additional information.

AO-29: EXHIBIT I

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT FORM

RCVD-BCHR-AUG 6 '15

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<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>INITIALS</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	✓	_____	[Signature]	8/5/15
Risk Management	✓	_____	[Signature]	8/12/2015
County Attorney	_____	_____	_____	_____

If any office denies approval, the package will be returned immediately to the User Agency.

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