



CITY OF AVON PARK

Highlands County, Florida

CITY COUNCIL REGULAR MEETING

September 12, 2022, 6:00 p.m.

Council Chambers, 123 E. Pine Street, Avon Park, FL

This meeting will be held in person at the above address.

You are welcome to attend via ZOOM, if you wish. To enter this meeting, you must use the ZOOM app and use code 699 454 4458 No Password needed

A. CALL TO ORDER:

1. Invocation
2. Pledge of Allegiance
3. Roll Call

B. CITIZENS/OUTSIDE AGENCIES

4. Discuss with Council about holding a Professional Wrestling Event at the Boys & Girls Club - Dave Cornuet, Executive Director
5. Complaint on PW Director Ref. Dumpster Placement Discussion- Citizen, Richard Macklin

C. CONSENT AGENDA:

6. Minutes, June 7, 2021, City Council Special Meeting (Older Minutes Not Approved)- City Clerk, Christian Hardman
Minutes, August 8, 2022, City Council Special Meeting
Minutes, August 15, 2022, City Council Special Meeting
Minutes, August 29, 2022, City Council Regular Meeting

D. ACTION AGENDA

7. **Second Reading, Public Hearing:** Ordinance No. 14-2022 and 15-2022, Amending the Future Land and Official Zoning Map for 915 Dyal Street- CFRPC, Jeff Schmucker
8. **Public Hearing:** Resolution 2022-20, Establishing and Imposing Fire Rescue Assessments- Fire Chief, Andy Marcy
9. Discussion Draft Airport Budget and Overview of FY22/23 Budget- Finance Director, Melody Sauerhafer
10. **Public Hearing:** Resolution No. 2022-24, Proposed Millage Rate- Finance Director, Melody Sauerhafer
11. **Public Hearing:** Resolution No. 2022-25, Tentative Budget FY 2022-2023- Finance Director, Melody Sauerhafer
12. Resolution 2022-22, Fred Conner Street- Avon Park Road Assistance State Funded Grant- Finance Director, Melody Sauerhafer
13. Resolution 2022-23, Adopting Lien Reduction with Council Hearings- City Attorney, Jerry Buhr
14. FAA Apron Rehabilitation Construction Grant- Finance Director, Melody Sauerhafer
15. AIP Due Diligence Grant - Finance Director, Melody Sauerhafer
16. Reappointment of Board Members to the CRA Advisory Board- City Clerk, Christian Hardman

E. STAFF UPDATES/ADMINISTRATION

F. ATTORNEY UPDATES

G. COUNCIL DISCUSSION/UPDATES:

H. CITY MANAGER'S REPORT

17. Regular Updates from the City Manager

I. PUBLIC PARTICIPATION

18. **ADJOURN:** The next City Council Regular Meeting is scheduled for Monday, September 26, 2022, at 6:00 p.m.

Any person who might wish to appeal any decision made by the City Council of the City of Avon Park, Highlands County, Florida, in public hearing or meeting is hereby advised that he/she will need a record of the proceedings, and for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made which will include the testimony and evidence upon which such appeal is to be based. Any person with disabilities requiring accommodations in order to participate should contact the City Manager prior to the meeting.

Agenda Item Summary

Date of Action: September 12, 2022

Subject: Discussion of a Professional Wrestling Event being held at the Boys & Girls Club

Item No.: B-4

Placed on Agenda by: David Cornuet, Executive Director
Highlands County Boys & Girls Club

Staff Review:

Attorney Review:

Recommended Motion(s):

Documentation: None

Background:

Agenda Item Summary

Date of Action: September 12, 2022

Subject: Complaint on Public Works Director re: Dumpster Placement Discussion

Item No.: B-5

Placed on Agenda by: Citizen, Richard Macklin

Staff Review:

Attorney Review:

Recommended Motion(s):

Documentation:

Background:

Agenda Item Summary

Date of Action: September 12, 2022

Subject: Draft Minutes

Item No.: C-6

Placed on Agenda by: City Clerk, Christian Hardman

Staff Review: Yes

Attorney Review:

Recommended Motion(s): Approve Consent Agenda

Documentation:

- Draft Minutes, City Council Special Meeting, June 7, 2021 (old minutes that have not been approved)
- Draft Minutes, City Council Special Meeting, August 8, 2022
- Draft Minutes, City Council Special Meeting, August 15, 2022 (WWTF)
- Draft Minutes, City Council Regular Meeting, August 29, 2022

Background:



CITY OF AVON PARK
Highlands County, Florida
MINUTES OF THE CITY COUNCIL SPECIAL MEETING
June 7, 2021, at 6:00 p.m.

A. OPENING: CTO – 6:05 PM

1. Invocation: Mayor Anderson
2. Pledge of Allegiance: Mayor Anderson
3. Roll Call: Acting City Clerk, Danielle Phillips

COUNCIL MEMBERS PRESENT:

Member Brenda Gray
Member Shirley Johnson
Member Maria Sutherland
Deputy Mayor, Jim Barnard
Mayor Garrett Anderson

COUNCIL MEMBERS ABSENT:

Staff Present:

City Manager, Mark Schrader
City Attorney, Gerald Buhr
Human Resource Director, David Shoup
Acting City Clerk, Danielle Phillips
Special Council for City, David Bannard (ZOOM)
Consultant for the City, Lowell Clary

B. SPECIAL BUSINESS:

4. Select Florida Airport Management's (FAM) Proposal before Discussion of Negotiation.

Mayor Anderson said he understands the Council must accept Florida Airport Management's proposal before a discussion in public can happen, and asked City Attorney Buhr if that is correct. City Attorney Buhr said, yes. Mayor Anderson asked if council had a motion to that effect.

MOTION, made by Councilmember Gray, seconded by Councilmember Johnson, to select Florida Airport Management's Proposal before Discussion in public can happen.

Mayor Anderson asked if there were any questions. There were no questions.

AYE: Gray, Johnson, Sutherland, Barnard, Anderson

NAY: None

Motion Passed: 5-0

City Attorney Buhr said the Council can now proceed forward and negotiate.

5. Discussion with FAM- Reference their Revised Term Sheet- City Input and FAM's Response to City Input.

Mayor Anderson said now we can publicly negotiate. When Council had our private meeting, there were several recommendations forwarded to FAM. FAM has now responded to them. He asked Lowell Clary (Consultant) to take the Council through what the biggest barricade is. Mr. Clary told Mayor Anderson we first have a couple questions for FAM to clarify issues we have identified.

Mr. Clary requested clarification on the Capital Lease to which J.T. Clark (FAM) explained there are four ways the Internal Revenue Service (IRS) and Generally Accepted Accounting Practices (GAAP) look at this to determine a capital lease classification; only one of the four have to be met to be considered a capital lease. As of now, we meet two of the four; if this later becomes privatization, we would meet the other two as well. But we all know how long the privatization process can take up to 10-years, and it is very costly.

So, we want to look at the bottom two first; where the lease term is greater than or equal to 75% of the estimated economic life for the leased asset, at the beginning of the lease term, and item two - the present value of the lease payments is, greater than or equal to, 90% of the fair value of the leased assets. Mr. Clark said we still have to wait for the FAA to approve the \$9.2 million value of the airport, as the fair market value. FAM is assuming the FAA will approve it because an appraisal was conducted under Uniform Standards of Professional Appraisal Practices. Once approved then we will qualify for both.

Mr. Clary referenced financing, then asked if FAM expects mortgaging these assets, to which Mr. Clark said yes and no. He explained how the U.S. Department of Agriculture (USDA) grants loans (for one of their tenants); they consider capitalization to secure a loan guarantee. So, whatever down payment we put, whether it is this or otherwise, we write a private check for \$10 million, creating an opportunity for private financing in the amount of \$40 million for infrastructure improvements.

City Attorney Buhr questioned how FAM will mortgage municipal property in the State of Florida, to which Mr. Clark explained the asset will have to be reflected on their balance sheets. City Attorney Buhr said they cannot place a mortgage on municipal/government property in the State of Florida. Mr. Clark said if FAM manages the property, it allows them to mortgage it; to which City Attorney Buhr said he would need to see a legal opinion from their (FAM's) counsel to that effect.

Outside counsel, David Bannard agreed with the city attorney's concern over the city property and added in his opinion; the FAA will find it difficult to accept the proposal under a long-term lease, compared to a privatization. Mr. Clark explained it will be under IRS codes and GAAP. David Bannard said the city would look for legal assurance from FAM's counsel in the form of an opinion; something that gives assurance under the structure Clark is outlining.

Discussion continued regarding the details of the USDA loan and what FAM requests of the city. Mr. Clark confirmed in order for FAM to have full fiduciary control over the airport, the city must allow them to include the capital lease on their balance sheets. Mr. Clary and Mr. Clark had some discussion about the USDA loan.

Mr. Bannard requested clarification from Mr. Clark on whether he is saying it is the city's responsibility to transfer title over to FAM; to which Mr. Clark reviewed governmental definitions for a capital lease and financing. He explained how the transaction allows FAM to get financing.

Mr. Clary asked for further details pertaining to the demand section of the agreement to which Mr. Clark explained the need for developers to have specifications and security to get involved in the project.

Mr. Bannard expressed concern over language in the cover letter; specifically, where "unfettered control" is referenced. The reason being the city remains the airport sponsor, which makes it beholden to grant assurances of the Federal Government. In his opinion, it appears FAM is seeking all control over decision-making processes regarding operation of the airport, master planning and development; and asked Mr. Clark is that your position or am I overstating you? Mr. Clark said that is their position. Councilmember Sutherland noted the 10-year term of the master plan, then asked if FAM will have unfettered control of future development to which Mr. Clark provided his clarification, and noted if the city wants to have input on what is in the master plan that is fine.

Mr. Bannard asserted under Grant Assurance number five and the terms of the FAA contract, the city must maintain rights and powers to carry out its obligations. Michael Powell of FAM is very familiar with grant requirements, and believes the city will still be involved in the master planning process, etc.

Mr. Bannard asked FAM for clarification regarding the FAA's need for assurances against the devolution of the city's rights and powers from the airport to the manager. Mr. Powell said FAA and FDOT would need a comfort level; who is doing what and that their requirements are being met. Mr. Bannard stated he believes they will want more than a comfort level with that, and will insist on the city (under the current structure) to have certain review and approval rights or they will not approve the lease agreement.

Mayor Anderson noted the questions at issue require FAA answers. He asked if there is a way to approach the FAA, and ask them for a straight up answer. Mr. Clark stated the Council will need to take affirmative action on the terms, then we can all go to the FAA and work it out.

Mr. Clary returned to the master plan, and inquired whether FAM's approvals will come from City Council to which Mr. Clark affirmed, clarifying its applicability to the Master Plan. Mr. Clary asked who handles grant requests to which he replied FAM on behalf of the city. Mr. Clary clarified FAM will perform the work and City Council will approve. Mr. Clark said yes. Mr. Clary asked FAM about setting rent/lease fees. Mr. Clark said no, given recent history- the rents are under fair market value, it would make it very challenging on FAM. Mr. Clary said so you want to set rates without city council approval, Mr. Clark said yes.

Councilmember Gray asked if FAM will continue to uphold existing leases. Mr. Clark confirmed yes. He noted with amenity improvements, rental rates will increase, and current tenants understand that. Mr. Bannard asked if he was confident the rental rates will be reasonable, under the federal law tests to which Mr. Clark said yes. He voiced concern that the rental rates are unreasonably too high, yet FAM will not grant approval rights to the city for lease fees. Meaning the city will have to defend the claims. Mr. Bannard asked how FAM will address complaints made to the FAA for unreasonable rents, since they don't want to give the city approval rights. Mr. Clark explained-

appraisal requirements; an appraisal is supposed to be conducted every five-years according to FAA guidelines. An appraisal for the Avon Park airport has not been done for several years. Additionally, the type of tenants brought in will differ from most of the current tenants, as currently there are only two business tenants.

Mayor Anderson wanted to know more about the method for establishing rates to which Santiago Fernandez, of FAM, answered they will use market cap rates and adjust according to location. Mr. Fernandez then gave examples of different locations and how it works.

Deputy Mayor Barnard asked if they set rates, will FAM have to gain FAA approval to which Mr. Fernandez answered they always have to ensure the city provides fair market value. Mr. Powell gave more information on the fair market value and the range, low to high.

Mayor Anderson noted FAM has a vested interest in making sure tenants remain at the airport. He asked if there are any scenarios where increasing rental rates will benefit FAM to which Mr. Barnard answered at other airports, such situations have occurred where the existing fixed based operator increased rent to an unreasonably exorbitant amount to block out competition.

Mayor Anderson asked if a tenant enters a lease for 30-years without having control over the rate to which Mr. Barnard explained how it occurs with commercial leases. Mr. Barnard asked whether FAM is considering dual rate methodologies to which Mr. Powell replied standard practice is to offer mechanisms to tenants so they understand what increases may include. For example, the Consumer Price Index (CPI), appraisal evaluations, and/or 2% gross receipts. Mayor Anderson inquired whether they have dealt with situations of a tenant lodging a complaint with the FAA, to which Mr. Powell said yes, almost daily. Mayor Anderson requested he elaborate on how they handle these scenarios, to which Mr. Powell explained mechanisms that protect the city include the price index, the master plan, standardized language and leases, etc.

Discussion continued regarding Mr. Powell's experience with government facilities entering a lease with private organizations; as well as Mr. Powell's experience with mortgaging government property to gain financing. Mr. Santiago gave an example of Jet Blue at Orlando International Airport; explaining how it worked. He noted they have a 25-year lease and the FAA wants to ensure you are receiving fair market value for the property. Mr. Santiago answered questions from Councilmember Sutherland about sectioning off parts of an airport and capitalizing properties.

Mr. Barnard said the FAA considers the lease of an entire airport differently than they do when only a section of the airport is leased for a specific development, using the Jet Blue project as an example. He said they leased a substantial amount of space, but in the context of Orlando International Airport it is actually a small piece of the airport that was assigned for development. It is not like Jet Blue was leasing the entire airport and controlling everything about the airport. He said the FAA looks at leasing an entire airport extremely differently compared to when someone is looking at leasing a portion of an airport for a specified development; this is where we are concerned, we want to make sure the city is well protected from any problems arising from the FAA. When an entire airport is leased out, the city has considerably less control than say an area is leased out for a non-aeronautical facility. Mr. Santiago of FAM provided examples of other airport carriers at Orlando International Airport, ending with he understands Mr. Barnard's point, but it is all about economic development.

Councilmember Sutherland asked about the issues of procurement and ownership oversight. She asked if they were to lease the entire airport as they want to; will separating it be acceptable or is it an issue of concern? Her question was regarding FAA assurances, airport management, grant/funding mechanisms from Federal and state governments. Mr. Clary answered the city is responsible, according to the FAA. Essentially, the Council needs to determine the level of oversight. Mr. Clary continued saying that what FAM is proposing is the city approves any Master Plan updates and grant applications. FAM handles rental management and sublease agreements. He said it is really a policy question, but is also going to be an FAA and FDOT review question.

City Attorney Buhr spoke of negotiating an agreement and submitting it to FDOT and the FAA. He said they may approve it, then asked if the city can end up on the hook with the FAA or FDOT for something FAM does? Both Mr. Clary and Mr. Bannard said yes. Mr. Bannard clarified how it is a standard provision in agreements between airport sponsors (like the city) and developers (like FAM). The clause subordinates the agreement to existing and future grants agreements. He said they suggested it in a term sheet sent FAM. Their response was to say they will subordinate the grants through the lease. He said our goal is to ensure the city honors its obligations to the federal government for the grants you have taken and your contractual obligations to FAM, which would be enforceable under Florida State law. He said in his opinion, there is a potential for those interests to come into conflict, which is what the city attorney brought up. Therefore, the subordination clause is a common practice and why the FAA recommends it. Were the FAA to find a violation of the grant assurances, then the city must establish a corrective action plan. Mr. Bannard stated a subordination clause gives the city the ability to take such action. He said when FAM came back with that response, it gave us some real concern.

Casey Roberts of FAM clarified their position. When they used the word subordinate, they meant the funds to be subordinated to them (FAM) to fulfil the master plan. We did not mean we would take over the grant assurance; our meaning is the funds would be subordinate to us. We know we have to maintain the grant assurance, whatever the FAA requires. We have to abide by those. We only meant the funds, so the city would not keep them and divvy them out as they see fit. The funds would come through the city to FAM, so we could continue with the Master Plan. Mr. Bannard said that is very helpful. He asked if they are saying FAM will help develop the grant application for city approval; then it will be sent to the FAA and grant funds for the approved project will be theirs to use. Casey Roberts, said only the funds will be subordinated; they would have to abide by the grant assurance.

Mr. Clary requested clarification on FAM's request concerning Airport's CRA funds, to which Mr. Clark said any awarded CRA monies will go towards renovating the Poole Industry building. Councilmember Sutherland objected, stating CRA funds should go towards slum and blight. It should be used for the Classic Caladium building, along with other areas considered airport property, considering the city has a contractual obligation.

Councilmember Gray asked what is the total for available Airport CRA funds to which Councilmember Sutherland estimated \$150,000 to \$170,000. Councilmember Gray asked the status for the insurance money to which Councilmember Sutherland confirmed it is still on hold; they have not spent the funds. It is an estimated \$83,000.

Councilmember Johnson asked FAM if they were okay with what Councilmember Sutherland just told them. JT Clark, said it's not a make or break.

Mayor Anderson asked if there were further items for clarification. Mr. Clary inquired whether the terms in the agreement provide that FAM may transfer the lease to an affiliated entity without council approval. Mr. Clark said it is a general item, it's a long lease. Casey Roberts said it was just future thinking. It comes down to if in the future we had an affiliate, someone in our company who wanted to take it over, it would be allowed. Mr. Clary said the issue is they would have to have the qualifications, etc. Casey Roberts said an action that will not occur without city involvement. City Attorney Buhr recommended the city include a clause asserting they will not execute such a transfer without city approval, noting this is a typical clause; typically, there are no issues with it.

Councilmember Sutherland asked what will happen with the existing airport management should such a transfer occur to which Casey Roberts answered the affiliate essentially takes over- keeping the operation within FAM's internal operation with the same structure. Councilmember Sutherland asked if this is their business model, would they develop an airport then sell it? Casey Roberts said it's not about selling it, that's why we would want to keep it internal with an affiliate. Mayor Anderson asked if they agree with the transfer clause. Casey Robert's said yes.

Mr. Bannard requested clarification on the insurance provisions and whether FAM's intention is to piggyback off the city's insurance policy. Mr. Clark answered the assignment of outstanding insurance claims and the claim amounts, justify the work that needs to be done. It is common practice as far as comprehensive liability, etc. and it is noted as an ease of transition.

Discussion continued regarding the requirements for comprehensive liability, the city's ability to self-insure, the need for pollution coverage and indemnity insurance. Councilmember Sutherland asked FAM if they were asking to be covered under the city's insurance. Mr. Clark said it was just an option, and they will go get their own comprehensive insurance. City Attorney Buhr told FAM about other typed insurance coverages they would need to have. Mr. Clark said their insurance company could work that out, with the city and FAA.

Mr. Clary requested clarification on how general and master planning and design services will occur. Mr. Fernandez said he is the director of planning for the group, stating he has been in this business for 30-years, and Mike Powell (FAM) has managed airports this size for 20-years. The initial phases of FAM's onboarding will involve master planning and identifying funding sources. Their goal will be to plan out architecture, engineering, and maybe some environmental groups come in and do studies. We have a list of consultants we use and like to use all the time. Whatever we cannot do in-house, we procure that internally from consultants in the industry.

Mr. Clary asked whether FAM plans on using the city's procurement processes, or your own. Mr. Fernandez replied it depends on the project; adding we will produce our own master plan, which we can do in-house then move it up the chain and get FAA's approval. I think we will have the ability to move outside of a traditional city/local, state or federal procurement. Councilmember Sutherland asked are you talking about projects that were at your own expense, but if it is a FAA or FDOT grant, what your guidelines; is that going through the city where city staff would have to do all the paperwork, and get Council approval on a contract? Mr. Fernandez said there will be a selection committee involving the city (i.e., city liaison). We will have a rating system to rate the companies. We might select two architectural consultants and two engineering consultants two similar to what you currently have with your engineering consultant (Kimley-Horn).

Mr. Powell said everything we do must remain under FAA compliance; a master agreement has to be set up exactly as the FAA expects the language in it to be. He said you can select as many firms as you want; however, language in all RFPs and RFQs must be exactly how the FAA requires it to be.

Councilmember Sutherland returned to the procurement process and asked if grant assurances allow FAM to undergo purchasing without city input/oversight. She asked if that is what he was saying and if it is allowed? City Attorney Buhr stated funding requires the city to follow competitive negotiation statutes. Mr. Fernandez explained how the procurement work will be through an outside entity.

Mr. Clary noted the city has an existing engineering firm which is stated in FAM's updated proposal, and asked if FAM is requesting the ability to change the engineering firm? Mr. Fernandez replied FAM's intent is to come in and look at and assess the airport, then we would identify the priority projects. For example, the project the city has identified as a priority- the repaving, may not be what they decide is the priority. The steps they will follow include an assessment, adjustments, and the re-prioritization of projects based on a new capital improvement structure according to what is in the master plan. He said that is how we plan to do this. We will work with the city liaison so they see what we will be doing. Noting FAM will report what their future intent is, in continuous communication with the city.

Councilmember Sutherland asked if they see the city as the "pass-through," completing draw downs and submitting requests for reimbursement. Mr. Fernandez replied FAM will assist with procuring the grant, which includes the write up. Councilmember Sutherland inquired whether FAM will operate as a sub-contractor for the city, and Mr. Fernandez answered the city will have to reimburse the project and the several entities working under the project. Councilmember Sutherland asked if that was FAM. He said the airport itself. Councilmember Sutherland asked then would it be Danielle Phillips' responsibility in dealing with the FAA concerning drawdowns, compliance, and audits; would those dollars be factored into reimburse the city? Mr. Clary said he did not find where FAM listed in their proposal any qualifications regarding other architectural and engineering contractors. Mr. Fernandez said they had not selected a firm at this time; however, FAM will procure firms as projects move forward.

Councilmember Sutherland asked what will happen to contractors that have existing long-term relationships with the airport. For example, Kimley-Horn. Mr. Powell explained there will need to be an initial assessment for safety and security. Regarding the master plan, FAM will offer guidance. I think the FAA and FDOT would first look for safety and security to be handled first. What Mr. Fernandez is saying is we may need to redirect from repaving a parking lot or apron, for the FAA and FDOT would probably prioritize safety and security over the repaving project.

Danielle Phillips stated the FAA requires the city to do the Apron Project; as the condition of the apron is diminishing and falling apart, so it must be the next project per FAA. Mr. Fernandez stated the project is not a construction related issue, but one of design. Danielle Phillips agreed, the following year will be the construction. Mr. Powell asked if a state certified inspector did a complete walk around of the airport. Phillips said the FAA has already noted the 5-years projects they want us to do.

Mayor Anderson noted all FAM is saying is once they make their assessment, the priorities may change. They were just using our current FAA project as an example; however, we have got off on a subject that, at this time, does not really matter. He asked Mr. Clary to continue.

Discussion continued regarding the master plan - approval, timing, master plan priorities, and FAM's responsibility to report back to the city. Mr. Fernandez agreed they included these conditions (the updated master plan) in the P-3 agreement. FAM has detailed the methods for which they will update the master plan; getting FAA approval with the city's assistance.

City Attorney Buhr said we can resolve this issue within the contract by inserting a condition stipulating the city's control over future matters and the master plan, including what projects they must complete first.

Councilmember Sutherland asked if the FAA will have to resolve the issue - to which Mr. Fernandez clarified how the city will add new projects. They do it all the time to adjust for changes in demand. She asked if the apron project was to be pushed back, what project would they move up? Mr. Fernandez said safety and security upgrades. For example, restricting access, as of now there are wide-open gates; there needs to be restriction to areas. Therefore, we need to do our assessment of what is needed, and funding sources would apply.

City Attorney Buhr asked if that is something we can have as an exhibit to the contract (what projects FAM will prioritize). Mr. Fernandez stated we will do an assessment; it will take place over 6-to-9-months. They will provide the document once completed; noting when asked by Councilmember Sutherland, they included the conceptional plan in the P-3.

Mr. Clary pointed out clauses concerning user fees, funds allocated from outside sources which are then invested in FAM's corporate partners. Mr. Clark responded FAM must pay FMV at \$9.2 million. Mr. Clary requested clarification on whether his meaning is whether the USDA or other entities invest; those funds count towards the lease payment - to which Clark said yes the city is still keeping the property. Clark said whether FAM goes out and gets \$9.2 million or \$109 million of improvements at the airport that should go to overall what we owe in the lease. Mr. Bannard clarified how FMV rent applies to the \$9.2 million over the term of the lease. Mr. Clark replied they must move the asset to the capital balance sheet. Discussion continued between Mr. Clary and Mr. Clark regarding the balance, transfer of the asset, the useful life of the airport, depreciation, and the need for clearer direction before any details can be confirmed. Mr. Clark said until FAM, Mr. Clary, and Mr. Bannard can sit down with the FAA and see what they (FAA) have problems with for what they are proposing. He said we don't know what they will approve.; he felt they are just speculating what can and cannot be done.

Mayor Anderson asked councilmembers if there was any opposition to getting to that point and moving forward. Councilmember Sutherland said yes, that is what I thought we were here for. City Attorney Buhr replied we should move forward; however, the issues should be done in order.

Mr. Clark inquired whether the council preferred to go with granular or general terms on the items. Mr. Clary replied granular, and Mr. Bannard said I think we need to defer to the city council. He said FAM had provided a term sheet, and we have bounced around and asked some questions, that have helped identify some issues for city council; but I do not think we have resolved all these issues. So, he is deferring to city county and the city attorney as to the best way to move this forward. He said-

he suspects if we go through every paragraph on the term sheet, we will be here for many hours. He said it's been good to hear FAM's views, and gives the city council better understanding how FAM would manage the airport.

Mayor Anderson asked if the city must have each one of these details worked out before asking the FAA the big questions. City Attorney Buhr said, I don't think so. Mr. Clark said the term sheet suffices to present to the FAA. We can take any concerns to the local office and up through the chain of command. City Attorney Buhr voiced his apprehension to this. City Attorney Buhr said his preference is to present a full lease, rather than term sheets. Mayor Anderson and Councilmember Sutherland spoke about how it always comes back to, no matter what we do, what the FAA is going to say.

Councilmember Sutherland asked if they will forward it to Miguel Martinez (Orlando FAA) to which Mr. Bannard replied, no it will go to Bart Vernace, Head of the Airport District in Orlando, and he (Bannard) has already spoken to Bart. He wants to be involved with this. He will want us to make a presentation to him for why we think it is good for the city, and whether it complies with federal law. Which is why we went through FAM's term sheet and identified the issues. He said the FAA prefers it be almost completed before they look at it, as to not waste their time. Bannard spoke of his experiences with the FAA involving negotiating term sheets. He suggests whatever the city presents to the FAA the city is very comfortable with, instead of throwing something against the wall and seeing if it will stick, but it is up to the city for how they want to proceed. It is really about the city's continuing credibility with the FAA as the airport sponsor; so, we want to make sure the FAA sees the city is paying attention to all the requirements.

City Attorney Buhr asked Mr. Bannard how long he believes it will take to draft a lease based on the term sheet - to which he answered he has a rough draft he is working through, estimating two to three weeks before he can submit to FAM. City Attorney Buhr said that sounds like the best option, and it is his recommendation. He said it does not need to be final and signed; it can be a redlined draft.

Mayor Anderson said he finds it hard to believe that there is not some type of an open line of communication with someone that works at the FAA or a consultant that has the authority to give us insight into what they will or will not approve. Mr. Bannard said with all due respect that is what the city hired himself and Mr. Clary for; to offer guidance on FAA requirements and what they have approved, based on their experience. He said the FAA does not like to look at this as piecemeal. Mr. Clary stated there are five to six issues they have come across. He proposed Mr. Bannard, a city-liaison, and he reach out to the FAA to discuss these bigger issues. Mayor Anderson said that is exactly what he wants.

Councilmember Gray asked Mr. Bannard if the FAA can review the documents they provided? Mr. Clary stated he will cover the main items: 1) is the capital lease structure and the different approaches; 2) the FAA will need to clarify what the city council will have to sign off on. For example, we talked about the master plan and grants, is there anything else the FAA will require the city to sign off on; 3) they will also need to define their expectations of FMV, including reinvestment. FAM is talking about taking third-party grants and federal grants, countering that toward FMV investments; 4) insurance, and 5) rents etc.

Mayor Anderson inquired whether FAM will have a representative present to which Mr. Fernandez confirmed. He asked for more details, to which Councilmember Sutherland stated she has no issues with three to four members of FAM being present during the meeting because they have different areas of expertise. Deputy Mayor Barnard agreed. Mayor Anderson said this meeting with the FAA is needed, as he believes they can work all these items out.

Councilmember Sutherland said to Mr. Clary it appears to her the contract is flawed in its perception of the lease and the claim from FAM that they can mortgage city property. Mayor Anderson agreed the legality of this issue is an important factor to confirm before moving forward. Mr. Clark asked, will the city, as the owner of the public asset, allow FAM to speak to the FAA? Bannard urged the city not to let FAM speak to the FAA without FAM's advisors present. Mayor Anderson and City Attorney Buhr agreed.

Mayor Anderson proposed they schedule a meeting between FAM, Mr. Clary, and Mr. Bannard prior to meeting with the FAA. City Attorney Buhr suggested they wait until Mr. Bannard has completed and sent the draft lease form to FAM to look over, then they can talk about it.

Councilmember Gray stated the council needs to understand what the FAA and FDOT were going to say first. City Attorney Buhr proposed Mr. Bannard continue to work on the lease; meanwhile, they can schedule a meeting with the FAA to discuss the issues mentioned by Mr. Clary. Mayor Anderson agreed, adding whatever the response, the council needs to be made aware and given enough time to review. Mr. Bannard said the FAA does not like to make policy for the city. He said we can ask them some specific questions and if that is council's direction, then he and Lowell can work with FAM to do that. He emphasized how the FAA will continually say it is the city's decision; the city's deal to make and the city makes the policy. The FAA will look to make sure it does not violate federal requirements. He said what he and Lowell have tried to point out are some of the hot buttons that will get the FAA really upset. There will be many other issues that will be important to the city, some of which will be important to the FAA (some not). He said the FAA will not take the position of saying you can do this, that, or something else. They will not take this position and will be unhappy if asked to.

City Attorney Buhr suggested Mr. Bannard continue to work on the lease and try to set up a meeting with the FAA to talk about the bigger issues. It may be the FAA will not want to meet with us for several weeks, and if so, by then we would have a contract to present.

Deputy Mayor Barnard voiced his expectation of the city's consultants, stating it was council's job to hire the outside attorney and consultant to do this work. He feels that all this work should have been done and prepared already, with all the major issues figured out between FAM and the representatives of the city. After which, it should have been brought back to us as if they agree or disagree. He said that we have been spinning our wheels, believing that a lot more of this should have been already done, etc. Mayor Anderson agreed, saying he does not want to hear again that FAM and our consultants need to have better conversation and take care of things (issues) before bringing it to council. City Attorney Buhr noted they must negotiate and resolve issues in the contract in the Sunshine (a reference to the Florida Sunshine Law). Mayor Anderson said he was not speaking of negotiations, then provided an example of what he was talking about.

Mayor Anderson asked if there are there questions of what the council is looking for, from anyone in this room. J.T. Clark thanked council and said he is happy to work with Mr. Bannard and Mr. Clary to get this all resolved.

There were no more questions or public participation.

C. ADJOURN:

Meeting adjourned at 8:06 p.m.

ATTEST: CITY OF AVON PARK:

Christian Hardman, City Clerk

James Garrett Anderson, Mayor

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CITY OF AVON PARK
Highlands County, Florida

MINUTES OF THE CITY COUNCIL SPECIAL MEETING
August 8, 2022, at 4:00 p.m.

A. OPENING: CTO – 4:00 PM

1. Invocation: Deputy Mayor Barnard
2. Pledge of Allegiance: Deputy Mayor Barnard
3. Roll Call: City Clerk, Christian Hardman

COUNCIL MEMBERS PRESENT: Member Brittany McGuire
 Member Shelly Mercure
 Member Berniece Taylor
 Deputy Mayor Jim Barnard
 Mayor Garrett Anderson

COUNCIL MEMBERS ABSENT:

STAFF PRESENT: City Manager, Mark Schrader
 City Clerk, Christian Hardman
 Finance Director, Melody Sauerhafer
 Fire Chief, Andy Marcy
 Human Resources Director, David Shoup
 Public Works Director, Rick Reed

B. CITIZENS/OUTSIDE AGENCIES:

Fiscal Year 2022/2023 DRAFT Budget Discussion- Finance Director, Melody Sauerhafer

Finance Director Sauerhafer started her presentation with the General fund capital outlay included in each council member's agenda packets. She detailed the total capital outlay for governmental services; explaining the different capital items for each department. Governmental services fall under City Hall and other related departments. She presented the narratives for each item under the Capital Improvement Plan (CIP). Sauerhafer said the roof for City Hall (coming out of infrastructure funds) and the Finance Management Software (coming out of the General fund) are both carry forward items.

Deputy Mayor Barnard asked when will City Hall roof repairs take place. City Manager Schrader said he spoke with David Roberts on whether the roof needs to be replaced or if there is more time. Mayor Anderson asked if there were any leaks. City Manager Schrader said condensation-

from the air conditioner had backed up and caused a leak; however, it was not the roof itself. Councilmember Mercure asked how long ago we had replaced the roof. City Manager Schrader did not have that information.

Councilmember Taylor asked whether we inspected the roof after the hailstorm. City Manager Schrader said yes, they found some damage to the air conditioning units on the roof

Sauerhafer continued the discussion, presenting the CIP listed under Police. There is \$200,340 for vehicles which is in line with the Highlands County Sheriff's Office (HCSO) contract. The contract will continue through 2023/2024. Mayor Anderson asked if the total includes 5 vehicles. She said yes.

Finance Director presented the CIP for the Fire Department. Chief Marcy provided an update on the Fire Station Hardening grant. In relation to the engineering bid for the grant, Mayor Anderson asked if they are looking for a civil engineer or can we reach out to the city's list of engineers. Chief Marcy was unsure what kind of engineer is required.

Sauerhafer said the city has to go out to bid under the grant. Mayor Anderson asked if it would be inappropriate to send out a bid invitation to the engineers that work with the city. City Manager Schrader agreed to meet with Andy Mogle in purchasing to find out if he sent them information.

Chief Marcy said, regarding a request for a gear washer for \$46,000; he applied for a grant. The city should know within the next few weeks whether we get will get it. It is a grant for 75% of the cost; the city would pay 25%. Mayor Anderson asked if this is an item he would purchase without the grant. Chief Marcy said he would like to. He went over the details of why the department needs the gear washer, and the difference between a gear and a bunker gear washer.

Discussion continued regarding replacement of, and the procedures for, trading out bunker gear.

In relation to the department's request for an aerial truck (Fiscal year 2024/2025), Mayor Anderson asked if there are grant opportunities to help with the purchase. Chief Marcy said that is his goal, besides applying for grants to pay for radios. He left it in the budget because the department needs to replace radios.

Sauerhafer presented the CIP for Transportation; proposed purchases include street improvements, sidewalks and curbs, and storm water & drainage. We include these expenditures in the CIP every year. Public Works Director Reed went over the vehicle purchases requested in the CIP.

Councilmember McGuire asked if the vehicles discussed are additional, other than the ones presented over previous budget discussions. Reed said they are the same as what was discussed at the previous budget meeting. The vehicles that are being replaced are all older vehicles.

Councilmember Taylor asked what condition these vehicles are in; she considered whether they can be given to different departments. Reed said they are not in good condition.

City Manager Schrader said it is a good question; the city received a new Ford F150 earlier- it is going to Johnathan Martinez at the Wastewater Treatment plant. He is using a Ford Escort (actually a Ford Escape). It will be used at City Hall for employees instead of them using their own-

vehicles. Two of the vehicles that are going to be replaced are deadline, never to be used again. One vehicle has a blown transmission or engine. As of now, employees are using a van that was (used at one time) to pick up inmates. If it can be used elsewhere, we will use them to the end of the vehicle's life or trade it. Another example of a vehicle replacement is Mike Stone's vehicle. It has springs coming out of the seat and looks terrible; we will replace it with a Cargo Van. The Cargo Van is \$8,000 to \$10,000 cheaper than a truck. Mayor Anderson noted the CIP narrative provides details on the vehicles needing to be replaced.

Deputy Mayor Barnard referenced street improvements, sidewalks, and storm water; he asked if the Council should add more funds to those areas to keep up with street and sidewalk maintenance? City Manager Schrader asked Sauerhafer to see what is available under infrastructure reserves.

Mayor Anderson asked if there is a grant available, for example, every 3-to-4-years, for street improvements. City Manager Schrader said there are grants; the city just applied for \$69,000 for Fiscal year 2022/2023. Mayor Anderson asked if there are blanket grants available. City Manager Schrader said no, clarifying it is the Small County Outreach Program (SCOP). The city did not receive the grant for 2021/2022; however, it was awarded for 2020/2021.

Mayor Anderson asked if there are grants for storm water. City Manager Schrader said not that he has seen; Reed agreed. Mayor Anderson encouraged staff to keep searching for grants to help with storm water because he does not foresee the city, realistically, funding \$1 million annually for road construction without grant assistance.

Sauerhafer presented the CIP for Streets; proposed purchases include street construction, which is anything to do with streets that are not paving, and a power liner striping machine.

Regarding the power liner striping machine, Mayor Anderson asked if this will do roads and parking lots. Reed said it will do everything. Mayor Anderson agreed the city desperately needs it. Reed answered a question from Mayor Anderson regarding the reflective paint used with the machine.

Sauerhafer presented the CIP for Parks and Recreation; proposed purchases include the Community Center carry forward for the roof replacement, Durrah Martin Park of which the city is applying for grant funds through the Florida Recreation Development Assistance Program (FRDAP), the MLK Jr. Sports complex which we have also applied for FRDAP grant funds, and the roofs at Lucy Derkman Softball Complex.

Mayor Anderson referenced the Recreation and Parks Advisory Committee (RPAC); he said to let him know if staff thinks of anything that may apply towards RPAC funds. Sauerhafer said once the city gets the bids for FRDAP- a part of that can be reimbursed by RPAC. She believed the city must have bids in and be ready to move forward before presenting to RPAC.

Reed went over details relating to the roofs at the Lucy Derkman Softball Complex, the Toro Sand Pro, and the Vermeer Brush Chipper. He answered a question from Mayor Anderson regarding whether there is a trailer for the Brush Chipper.

Reed continued providing details on the remaining CIP purchases for Parks and Recreation, including a walk-behind floor scrubber for the Community Center. He answered questions from Mayor Anderson regarding whether the floor scrubber is only for the Community Center and if it can be used elsewhere, such as City Hall.

Sauerhafer went over the remaining CIP items for Parks and Recreation, including another FRDAP project at Lake Tulane Park for Fiscal Year 2023/2024 and the Ford F600 with an aerial lift for Fiscal Year 2024/2025.

Mayor Anderson noted the FRDAP items repeat each year. He asked if the city is eligible for a grant every year. Sauerhafer said from her understanding, the city has to have something in the CIP in order to apply for the grant. Mayor Anderson asked if the Council can list and assign a budgetary number to other parks, and can Donaldson Park be included. Sauerhafer said yes to both questions.

Deputy Mayor Barnard noted when grants are not approved for building repairs; according to City Attorney Buhr, we can take funds out of the CRA to be used for brick and mortar. Mayor Anderson said as long as it is in the CRA district, for example, Donaldson Park is in the Main Street CRA district. The MLK Jr. Sports complex is a part of the Southside CRA.

Councilmember McGuire asked if FRDAP and CRA funds can be used, considering FRDAP is a 50/50 grant. Mayor Anderson said yes.

Councilmember Mercure asked in relation to the Lucy Derkman Softball Complex, is that area ever used? Reed said the city maintains it but he has not seen it used. Mayor Anderson said there were a couple of leagues that used Lucy Derkman, but nothing recently. Councilmember Mercure spoke of the problems with the complex, saying it seems like a waste.

Mayor Anderson said there are four baseball fields; the high school uses the largest one but the leagues use the other two. The city has not been able to maintain any of the baseball fields adequately. He was unsure how to approach taking one down and eliminating it to not soak up more funds. Reed said Lucy Derkman is the only girls' softball field in Avon Park.

Discussion continued about the differences between little league, softball fields, and the sizes of each field at the airport.

City Manager Schrader spoke of the Lucy Derkman Softball Complex and the work that has already been done to improve and maintain it. He agreed we rarely use it and the city might as well sell it. Mayor Anderson agreed, adding if it were to just be used as a field, it is less work to maintain it.

Councilmember Mercure considered the possibility of contacting an organization who can start a girl's league to use the field.

Discussion continued regarding the potential for the Lucy Derkman Softball field to be used for a girl's league and who handles maintenance of the Head Field Complex. City Manager Schrader said he agreed with Councilmember Mercure. It would be great if the city can find someone to use Lucy Derkman Softball field for a softball or kickball league.

Discussion continued related to past kickball and softball leagues, that the city cannot start a league, and how travel teams bring in traffic to parks.

Sauerhafer summarized the proposed CIP under the General fund. She also went over Citywide Capital for water/wastewater and sanitation, previously discussed at the July 18th and July 25th special meetings. Sauerhafer went over the changes that took place during those discussions.

City Manager Schrader answered a question from Deputy Mayor Barnard regarding the garbage truck that was removed from capital during the July 25th meeting. Reed answered Deputy Mayor Barnard's question regarding the Garbage Truck side loader currently used in sanitation.

Sauerhafer summarized new positions, wages, and benefits; including the changes that were discussed during the previous budget meeting. She continued her presentation by explaining the proposed 3% Cost of Living Adjustment (COLA) which has not been included in the budget. Sauerhafer also explained the \$0.45 hourly increase for employees of which is included in the budget. She answered a question from Deputy Mayor Barnard regarding whether the \$0.45 increase applies to all employees.

City Manager Schrader said in relation to the increase, there are two employee unions. He explained how times are tough for the city and the city's employees. City Manager Schrader said he wanted to present a 3% increase for the employees; it would increase the budget \$151,530 (coming out of different funds). He is meeting with the Fire Department in the upcoming week; they will be asking for a three-year agreement and for a 3% increase for the second and third years. City Manager Schrader said he will also meet with the ASCME Union and he is unsure of what they will be asking for. As City Manager, he believes all city employees, under manager, deserve a 3% increase.

Deputy Mayor Barnard asked if the 3% increase is the same as the increase in the budget for \$151,530. Mayor Anderson and City Manager Schrader said that is correct. Deputy Mayor Barnard asked if the unions are included. City Manager Schrader said that will include everybody, but the unions will have to accept it first. Mayor Anderson clarified we included everyone except for the Fire Chief, the Human Resources Director, Finance Director, Public Works Director, City Manager, and the 5-managers. City Manager Schrader said it will also include Andy Mogle (purchasing agent). Deputy Mayor Barnard asked what COLA was for 2021/2022. Human Resources Director Shoup said 5.9%.

Councilmember Taylor asked how many employees they included in the budget increase for \$151,530? City Manager Schrader said there are 85-employees when the city is fully staffed. As of now, we are 6-employees down; we pay Andy Mogle outside of the pay scale. Mayor Anderson said it is around 73-employees.

Mayor Anderson agreed with the City Manager's recommendation considering inflation; for a majority of employees 3% means a lot. It also shows how the city will reward employees for hard work. With the likelihood of a recession, these positions are more valuable to employees. The city needs to affirm that we are a good place to work and we value the employees' hard work. And that working for Avon Park can be a career.

Councilmember Taylor asked when the minimum wage increase to \$15.00 begins. Human Resources Director Shoup said the end of September 2026. Councilmember McGuire asked if this will depend on how long an employee has worked for the city or would it be the same for new employees. City Manager Schrader said it is the same for all employees, including new ones.

Councilmember McGuire asked if the \$0.45 hourly increase was besides the 3% COLA increase. Sauerhafer said yes. City Manager Schrader explained how it will not apply to employees who have already reached their salary maximum.

Deputy Mayor Barnard agreed with Mayor Anderson. Inflation has caused a lot of problems for everyone in the country. He believes the city is finally at a point where employees are happy to work for the city. Deputy Mayor Barnard said he is proud of staff and the last wage increase came with a lot of gratitude. He spoke of the hard-working conditions for employees who are out in the field and employees who work with outdated equipment. Mayor Anderson said it provides managers more leverage to insist employees do a good job; there is no leverage to manage employees who are paid wages below industry standards.

Councilmember Taylor said she does not disagree; she felt it was not enough. Councilmember Mercure agreed, adding if the city takes care of its employees, they will reciprocate.

Discussion continued regarding increases and the effects of salary increases on tax payers.

MOTION was made by Deputy Mayor Barnard and seconded by Councilmember McGuire, to approve a 3% cost-of-living adjustment, across the board for all the employees- as presented.

AYE: McGuire, Mercure, Taylor, Barnard, Anderson

NAY: None

Motion Passes: 5-0

City Manager Schrader said he is proposing a salary increase for some directors, and supervisors who are currently earning \$57,000 annually, he would like to increase that to \$60,000, which is already included in the proposed budget. For comparison, he mentioned Chief Marcy's increase to \$76,000, which is the lowest salary tier for the Fire Chief in Sebring; Sauerhafer's salary is the lowest salary tier for the Finance Director in Sebring. It is the same for the supervisors.

There was discussion regarding the city's team working well together. There is now a positive work culture. City Manager Schrader extended appreciation from the staff to all councilmembers

Councilmember Taylor asked if the City Manager will receive an increase. City Manager Schrader said he is a contract employee; his contract expires in February 2023. Mayor Anderson said at the end of the contract, there is a renewal; during which the Council would decide how to proceed for example, how long will they extend the contract, terms and conditions.

Sauerhafer continued her presentation by going over the General fund, including millage rates and reserves. Regarding millage rates, she presented the different operating revenues and reserve balances if the millage rate increased to 4.25, 4.3681, and 4.5; her reserve calculations included American Rescue Plan Funds (ARPA) and the Return on Investment (ROI).

Mayor Anderson said ARPA funds are approximately \$2.5 million; in each scenario presented, the city is still using \$700,000 of ARPA funds. These funds are being depleted, even with a millage rate of 4.5. The city is running at a deficit. Something needs to change. Sauerhafer noted a millage rate of 4.3681 with ARPA and ROI funds, will bring the city's operating revenues to a breakeven point.

Deputy Mayor Barnard asked if that includes the costs to upgrade equipment at City Hall, such as the computers. Finance Director Sauerhafer said yes; it includes all the capital previously discussed. He asked if it included vehicle purchases the Council had not decided on yet. She said it does not; before the end of this meeting, she needs direction on what to keep or remove.

Councilmember McGuire thought, at the last meeting, that a millage rate of 4.25 would keep the budget balanced. She asked if they added quite a bit. Sauerhafer said the additional employees and increases for the managers (\$18,000) were not in there originally. Mayor Anderson said the 3% increase for employees was an additional \$150,000. Deputy Mayor Barnard asked if the COLA increase, manager's pay increase, and the vehicles were included in the budget figures. She said yes.

Mayor Anderson asked Sauerhafer to go over the proposed vehicle purchases. She listed each vehicle under the Transportation Department, including the Haulotte Man Lift- \$30,950 to which City Manager Schrader said that is a must-have. Mayor Anderson agreed. Sauerhafer referenced the F350 Diesel Utility Truck- \$69,290.

Mayor Anderson asked if any of the vehicles were questionable. Reed said no. Mayor Anderson said the only items that they questioned were the street sweeper. Reed said, besides the Boom truck and the Crane truck. Sauerhafer said they budgeted the other items for 2023/2024. The only other item that is included which has not been discussed is the Ford F600 with the aerial lift for \$180,000; we pushed this vehicle out to Fiscal year 2025/2026.

Mayor Anderson said he identified nothing questionable in the requested vehicles.

Councilmember McGuire asked if grant funding was considered. Sauerhafer said what they are looking at includes the grant expenses; however, when looking over the total operating budget, it includes all grants. The total is just operating but does not include the grants because the revenue will come in and the expense will go out; it will be a complete wash.

Mayor Anderson asked if the budget assumption for the Fire assessment is \$140. Finance Director Sauerhafer said no, we budgeted it at the original rate of \$130. Mayor Anderson said the only other thing that would affect the budget is the pending rate study for water/wastewater and sanitation. Sauerhafer said correct, adding we will need time to implement any rate changes.

City Manager Schrader said her statement applies to water/wastewater; sanitation, can be implemented a lot quicker because we do not need a study. Staff must show the Council that the sanitation rate is fair and equitable to everyone who pays it.

Discussion continued regarding the water/wastewater study.

Mayor Anderson went back to millage rates, saying the proposed vehicle purchases have already been tweaked and optimized. He recommended moving forward with a millage rate of 4.3681. It will allow the city to pull from the ARPA funds. Mayor Anderson spoke of how the city will need-

to pull from the funds for several years to provide a cushion, minimizing the budgetary impact. Hopefully, by that time, the city can generate more revenue, in a few different areas and hopefully make it maintainable.

Discussion continued regarding the City of Sebring's millage rate and the fact that the budget does not consider the increase in the city's property values.

Deputy Mayor Barnard and Councilmember McGuire agreed with the mayor's recommendation for a millage rate, noting if the previous administration had not driven it in the ground, we would not be in the predicament we are in now. Mayor Anderson said maintenance wise we are climbing out of a hug deep hole and have been for several years. Councilmember McGuire said even with the vehicle situation it is infuriating in her opinion; so, now we just need to fix it.

Discussion continued regarding previous administration's decision to decrease the millage rate, inflation, tax revenue, and city services.

Deputy Mayor Barnard said hopefully next year inflation will go down and revenues will go up. And new businesses will be coming to the city.

MOTION was made by Deputy Mayor Barnard and seconded by Councilmember McGuire, to approve a millage rate of 4.3681.

AYE: McGuire, Mercure, Taylor, Barnard, Anderson

NAY: None

Motion Passes: 5-0

Sauerhafer said for the Tentative and Final Budget hearings, the Council will vote on the millage rate again.

Deputy Mayor Barnard asked if the Council can increase the sanitation rates back to where it was before (without an ordinance). City Manager Schrader said City Attorney Buhr opined it is fine, so long as the city can prove it is not collecting more revenue than is needed. The last resolution was in 2015, when sanitation decreased to \$15. Rates for the dumpsters have not increased since 2004.

Discussion continued related to sanitation rates from 2004 to 2014; the city has lost approximately \$3.8 million over 18-years.

City Manager Schrader said the city is paying \$62.75 for 95-gallon garbage carts but charges \$47.00. What this means is the city is losing money. He also provided a rate comparison for 2-cubic yard dumpsters for a single weekly pick-up. The city charges \$49.70, but the City of Sebring is charging \$91.15. If a customer has 5-weekly pickups for their dumpster, they pay \$167.00. In the City of Sebring, they pay \$317.00. The city is losing money and picking up garbage for free.

Councilmember Taylor asked if the city is losing money on the regular garbage pickup. City Manager Schrader said he believes the city is losing money for all of it. The city is picking up garbage that people are not paying for, picking up dumpsters more than once a week for-

customers who only pay for the single weekly pick up. The city is also losing money on the amount of solid and yard waste being picked up with the Clam trucks.

C. ADJOURN:

Meeting adjourned at 5:12 p.m.

ATTEST: CITY OF AVON PARK:

Christian Hardman, City Clerk

Garrett Anderson, Mayor

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CITY OF AVON PARK
Highlands County, Florida

MINUTES OF THE CITY COUNCIL SPECIAL MEETING
August 15, 2022, at 6:30 p.m.

A. OPENING: CTO – 6:30 p.m.

Invocation: Mayor Anderson

1. Pledge of Allegiance: Mayor Anderson
2. Roll Call: City Clerk, Christian Hardman

COUNCIL MEMBERS PRESENT: Member Brittany McGuire
Member Shelly Mercure
Member Berniece Taylor
Deputy Mayor Jim Barnard
Mayor Garrett Anderson

COUNCIL MEMBERS ABSENT:

STAFF PRESENT: City Manager, Mark Schrader
City Clerk, Christian Hardman
Finance Director, Melody Sauerhafer
Human Resources Director, David Shoup
I.T. Administrator Matt Byrd

B. CITIZENS/OUTSIDE AGENCIES:

Presentation/Discussion of the below noted Draft Plans - Kimley-Horn, Jamison Tondreault

- DRAFT- Avon Park Water Master Utility Plan
- DRAFT - Avon Park Wastewater Master Utility Plan
- DRAFT – Avon Park WWTF Facility Plan

Jamison Tondreault of Kimley-Horn introduced Vincent Cassella and Matthew Tebow (Kimley-Horn). A PowerPoint presentation was used. Tondreault summarized the methodology used for estimating demands on population growth projections and summarized projected flows. He explained the method and modeling used for water and wastewater, including system hydraulic standards. Tondreault detailed how Kimley-Horn devised the Master Utility Plan, recommended capital improvement projects, the wastewater treatment facility (WWTF) condition assessment with recommended improvements, WWTF septage receiving, and expansion alternatives. He said the city contracted with Kimley-Horn to determine necessary- capital improvements and facility modifications to accommodate more flow

(mgd) and new Florida Department of Environmental Protection (DEP) limitations for total Nitrogen and Phosphorous.

Tondreault explained how population growth projections will affect existing and infill demands, expansion, and future developments. He went over how Kimley-Horn calculated the projected demands using commercial and industrial utility billing totals. There was a discrepancy in the city's billing data; he recommended a water audit. Tondreault presented a summary of the total projected water flows, the water treatment plant projected flows, and the capacity percentage for the water treatment plant.

City Attorney Buhr asked for details about the form of treatment for the water treatment plant; his question was regarding reverse osmosis, reject water, how it occurs, and how it will affect the wastewater treatment plant. Tondreault was not aware of any reject water; he did not believe the city has a reverse osmosis plant. To his knowledge, there is currently no wastewater coming from the plant.

Tondreault continued the presentation. Regarding capacity, DEP has issued a permit to the city for 1.5 million gallons per day. As of the time of this report, the city is using half of that amount. Kimley-Horn projects the city will exceed permitted capacity in 20-years.

Vincent Cassella spoke of how they modeled the system and the evaluation criteria. He explained water and wastewater hydraulic standards according to the state. Regarding water hydraulic standards, Cassella said the maximum system pressure is 90 psi. City Attorney Buhr said that is not sustainable. Cassella agreed, adding the average system pressure is 50 psi- until demand reached a high level. He then detailed fire flow demands for residential, commercial, and industrial hydrants.

Cassella continued his presentation with recommended present-day, water capital improvement projects. He said they evaluated these projects according to the previously mentioned constraints; then detailed each project, including deadline expectations.

Proposed projects included: an 8" and 12" Water Main Transmission line extension and looping of the system, which can be pushed back for 5 years (\$7.6 million); an up sizing of 2" and 4" water mains with looping in the Avon Park Lakes area (\$4.8 million). There is a lack of fire hydrants in the area for this project and others. Additional projects include: the up sizing of 2" and 4" water mains with looping in Avon Park Lakes Area (\$4.8 million), Lake Damon looping and up sizing (\$2.2 million), and up sizing 3" and 4" water mains with looping near Valerie Blvd (\$5.1 million).

Cassella explained the remaining project recommendations; starting with E. Cornell Street looping, including the Lake Angelo Area (\$90,000). Currently, there is only 1 point of connection in that area. Additional projects included US 27N Water Main up sizing from 8" to 12" (\$1.2 million); residential and commercial areas depend on this water main. He continued, State Road 64 Water Main up sizing 6" to 12" (\$2 million) because it has the worst fire flow in the current system. South Florida State College Water Main up sizing- there are Institutional fire hydrants on the college campus (\$1.2 million), Deer Lake looping and upsizing (\$1.4 million), Crystal Lake Club Pressure Control Valve- which is a Public Health Hazard because the water treatment plant at times must be forced to run to avoid bacteria growth (\$48,100). The final project is the installation of additional fire hydrants throughout the system (approximately 280 total). It is the largest and most important improvement which does not need to happen all at once, it is made up of many miscellaneous projects (\$13 million).

Regarding the Upsizing of water mains and looping in the Avon Park Lakes area, Mayor Anderson asked what percentage of residences in Avon Park Lakes will be completed? Cassella said the project does not expand new water mains to many people because there are already a lot of existing water mains in that area. The project will allow for more fire protection.

City Attorney Buhr asked for clarification- when Cassella references water mains, does he mean water mains inside subdivisions or city mains? He explained if the water main is inside a subdivision; it does not mean the city owns it or has the responsibility to maintain them. It is the subdivision's responsibility to install the 2" or 4" pipe. Cassella agreed; he explained that the Avon Park Lakes area had the potential of integration into the city's system, eventually. A big goal of the project is to make integration adequate according to the city's code. Tondreault said the water mains they are presenting are owned by the city.

Regarding the Lake Damon Looping and Upsizing project; City Attorney Buhr asked why Kimley-Horn considers the project a priority, rather than building a re-pump station or a satellite water plant? Cassella said if they try to hit 1,250 gallons per minute, they cannot get that amount of flow through a 4" pipe without friction loss. Re-pumping the pressure up is a better, viable option; 6" pipes are the most efficient option to support that much flow. Tondreault added, to install a fire hydrant on a water main, the city code requires 6" pipes as a minimum. City Attorney Buhr agreed.

Regarding the US 27N Water Main Up sizing (8" to 12") project; City Attorney Buhr said it is expensive to upgrade pipe along US 27. He asked if Kimley-Horn considered the possibility of a satellite water plant to the south or a re-pump station? Cassella said later on they recommend upgrades to existing water plants. For this project, they did not look at the possibility of a new satellite pump station to the south because the infrastructure already exists. Cassella said the proposed upgrades to the water plants are not too extensive; there is existing transmission infrastructure (12" lines) throughout the city. If this section on US 27 north was 12", it would create sufficient water pressure to the south. Tondreault agreed Kimley-Horn can look into City Attorney Buhr's suggestion; his suggestion would require more maintenance.

Cassella continued his presentation with recommended 5-year, water capital improvement projects. Projects included Little Red Water Lake looping- loops in the Valarie boulevard residential area (\$350,000), and the Glenwood Avenue water treatment plant pump upgrades- the estimated 5-year demand will require more pumps (\$290,000).

Cassella presented recommended 10-year water capital improvement projects. Projects included: the Bell Street water treatment plant pump upgrades (\$600,000) - estimated 10-year demands will require additional pumps. He concluded his presentation with 20-year water capital improvement projects. Projects included: Wilhite Street upsizing 6" to 8" (\$720,000), the Glenwood Avenue water treatment plant discharge pipe upgrades- proposed because of constricted flow at the plant (\$40,000), and the Bell Street water treatment plant discharge pipe upgrades (\$180,000).

City Manager Schrader asked Tondreault how confident he is that they identified all the underground water lines and sizes for the existing system? Tondreault said they are not 100% confident; Kimley-Horn did the best they can with the information they had. They also coordinated with city staff. Cassella added, when they made the maps for the city, Kimley-Horn was able to identify many pipes which he entered into- the computer. There were still a lot of unknown pipes; it was not viable to figure out every pipe. These pipes were represented in the maps he provided.

Regarding the Glenwood Avenue water treatment plant discharge pipe project (up sizing from a 6" to a 12" water main), City Manager Schrader spoke being in a prior meeting with Kimley-Horn in which they spoke of low water pressure on Main Street and how it was affecting some fire hydrants. He expressed concern for using these hydrants to put out potential fires on Main Street.

City Manager Schrader asked if this is part of the 10-year plan or was Kimley-Horn able to identify the reason for low flow? Tondreault said there were two hydrants where the flow was low, at one point, worse than what it is now. City staff located a closed valve. The fire flow is lower than expected in the models and it should be better on Main Street. They did not find out what was going on with it; it could be another closed valve or issues with the old asbestos cement piping. Even though there is lower pressure, the flow is still sufficient in achieving the 1,200 gallons per minute, under city code.

City Attorney Buhr asked if DEP allows asbestos cement piping underground or is it required to be packaged and sent to a Class A landfill? Tebow said it depends; if it falls apart in your hands, then DEP will make you remove it. If most of the pipe is still in its form and does not break apart, then it can remain in place. City Attorney Buhr expressed concern for the cost prohibitive removal of these pipes. Tebow said they recommend a global fill or pipe bursting- breaking the pipe. As long as it is not disturbed, then DEP will allow it to stay in place.

Tondreault continued the presentation by going over wastewater present-day improvements. Projects include: rehabilitation of Lift station #8- including replacement of pumps, discharge piping and the valve vault (\$290,000); installation of 3-backup generators for lift stations at South Lake Isis, Walmart and Memorial, which receive flow from many areas (\$390,000), relocation of- and improvements to Lift Station #18-Lake Tulane (\$1.8 million); cleaning sediment in the 16" force main for lift station #3 (\$30,000) and lift station #26 (\$30,000) to a 6" force main. The last recommendation was for the Central Avenue Force Main (6" to 10"), up sizing gravity sewers- from 8" to 15", and 12" to 15". Regarding the up sizing of the gravity main for Central Avenue, it has exceeded capacity- there are no overflows currently (\$870,000).

Regarding the backup generators, City Attorney Buhr asked if the lift stations have a portable generator? Tondreault said he would need to verify it; however, his understanding is there should be a generator there. Coordinating with city staff, he determined their preference was to have generators at these sites, in case something was to happen.

Tondreault said regarding Lift Station #18- Lake Tulane, it is the main master station which is right on the lake. He hoped the city can negotiate with Twin Lakes to get a corner piece of the property for gravity flow to a new master station. Mayor Anderson believed a lot of the flow from Nucor goes to this lift station; Tondreault confirmed.

In reference to cleaning sediment in the 16" force main for lift station #3, City Attorney Buhr asked if Kimley-Horn confirmed whether the force main is silted. Tondreault said no; however, the models projected lower velocity leading to the assumption of sediment build up.

Tondreault presented proposed 5-year wastewater capital improvements. Projects included: up sizing pumps at lift station #6 (\$270,000), Gravity sewer up sizing for the Master station at Cummings from 12" to 15" and 8" to 12" (\$1.7 million), and up sizing force mains at Tulane and Cummings from 8" to 12", and 10" to 16"; this project will also include a bypass of the public works lift station-#3 (\$3.1 million).

Tondreault went over the proposed 10-year wastewater capital improvements. Projects included: adding a third pump to lift station #7-Walmart (\$70,000), up sizing pumps at lift station #8 (\$270,000), and up sizing the Gravity Sewer System for Lift Stations 13-15 which goes to the Master station at Cummings, from 8" to 12", 12" to 18", and 14" to 18" (\$8.3 million). Regarding the pump for lift station #7, City Attorney Buhr asked if they size it for a triplex station? Tondreault said it is; adding, there is already a place selected, and piping ready for a third pump.

Tondreault presented Kimley-Horn's proposal for 20-year wastewater capital improvements. Projects included: up sizing pumps at lift station #17 and #24 to include pump replacement, base elbows, a control panel, and installation of variable frequency drives (\$480,000); up sizing force mains at lift station #7 from 6" to 10" (\$1 million) and lift station #6-Walmart from 4" to 6" (\$370,000), and up sizing the Gravity sewer system for lift stations #4- 5, 10, 22, 33, and 35- up to Lake Tulane (\$4.2 million); up sizing will be from 8" to 12", 12" to 15", and 15" to 18".

Tondreault said the wastewater treatment facility plan came about because of new nutrient permit limitations related to effluent and groundwater monitoring. He explained how the decrease in nitrogen limits from 10mg to 3 mg affects water treatment. Tondreault then went over the condition assessment that occurred for the wastewater treatment facility.

He detailed Kimley-Horn's recommendations for upgrades and repairs to these components, which included the Lakeside Oxidation ditch (\$750,000), clarifiers (\$400,000), and the RAS/WAS Pump station (\$450,000). Additional recommendations were made for the: Chlorine Contact Chambers (\$70,000), Plant Non-Potable Water Station (\$75,000), Effluent Pump Station (\$1,000), Sludge holding Tanks (\$1.3 million), Dewatering/Sludge handling (\$91,000), Plant Drain station (\$5,000), Septage Receiving, SCADA (\$110,000), Generators (\$750,000), and the Office building (\$850,000).

In relation to the RAS/WAS Pump Station, City Attorney Buhr asked what Tondreault was referring to when he spoke of pumping sludge from this facility. Tondreault said he is referencing waste activated (WAS) and return activated (RAS) sludge; specifically, the waste activated sludge is pumped from that station to the sludge holding tank. It then pumps the RAS (microorganisms).

Discussion continued regarding the Pump station- how the pumps and valves control the RAS/WAS deposited to the holding tanks, and the condition of the sludge holding tank, of which is undersized. They also compared the recommended holding period (10-15 days) for biosolids compared to how long they sit in the tank (1-day).

City Attorney Buhr requested clarification for biosolids; he was of the impression the facility hauls cake. Tondreault said yes, adding the RAS goes to the sludge holding tank which is pumped to the screw press. From there, the press makes the cake that is hauled off. Because there are fewer solids feeding into the screw press, the haul is inevitably less. With regards to septage receiving, Tondreault said the city charges approximately \$0.06 compared to other municipalities which charge up to \$0.14. He recommended the city look into those rates and increasing them. The city would be able to earn more revenue.

Tondreault presented septage receiving alternatives which included: Alternative 1- rock trap and septage receiving unit (\$705,600), Alternative 2- rock trap and septage receiving unit including grease and grit removal with process controls (\$1.3 million); Alternative 3- rock trap and septage receiving -

unit including grit removal and process controls (\$1.1 million). He said staff strongly recommends Alternative 2 because it includes grease and grit removal.

Mayor Anderson asked if Alternative 2 is an automated system and will it remove grit. Tondreault said yes, clarifying there is a piece of automated equipment that will remove grit. Process control is another item. They requested it because the septage haulers have to be supervised to make sure they are doing everything properly. With process controls in place, it will limit the number of hours spent overseeing the process. Mayor Anderson asked if savings will be on the equipment and man hours. Tondreault said yes. Tebow said it will also increase treatment efficiency because it is automated; it will protect downstream equipment from wear-and-tear.

City Attorney Buhr asked what the level of inadequacy is for the generator at the wastewater plant; will it be able to run in an emergency? Tondreault said the generator is only sized to handle half of the treatment plant. City Attorney Buhr felt the generator is more of a priority than the lift stations. Tondreault agreed.

Tebow continued the presentation by presenting the proposed wastewater treatment facility expansion alternatives. Kimley-Horn considered the existing treatment facility compared with neighboring municipalities. Alternative 1 is to maintain current technology. The city has a lakeside system that is reliable; however, the city will need to address some constraints of the system.

Kimley-Horn recommended addressing the tank depths. Currently, they are 12' which is shallow and not typical of a Florida plant. Alternative 1 provides for upgrades to the aeration system, additional process tankage, and filtration. Their recommendation is to build new process tankage to provide more room for microorganisms to grow, upgrade filtration to improve wastewater advanced treatment, bring the RAS/WAS Pump Station above ground, and address the sludge holding tank to allow operators more control.

Tebow presented Alternative 2. The alternative proposes Membrane Technology (MBR) which features membrane filtration. In typical treatment, microorganisms eat and are then transferred to a clarifier settling tank. Once settled, it recycles microorganisms back to tankage. With an MBR System, the settling process is removed. Instead, the microorganisms are sent to a filter, which are then returned to the tankage.

The benefit of this process is that it doubles the number of microorganisms in the tanks; doubling the treatment capacity of the plant's ditches. Another benefit is there will no longer be filters- the clarifiers and filters are replaced with the MBR system. In the future, with stricter nutrient regulations, the MBR system will be considered the best treatment technology, 10 to 15 years from now. The downside of the MBR process is that it requires more energy because of the membrane cleaning process- essentially, increasing the city's costs. It is a new process that the city would be committed to. The city would also have to install a tighter screen for additional infrastructure costs.

Mayor Anderson asked how long the MBR system has been available? Tebow said over 20-years. He spoke of other Florida municipalities who have used this technology. Their condition assessments are confirming second generation MBR Systems are still given 10 to 15 years of estimated life. Additionally, the system is mature enough that Solenoid valves and pumps do not break. Mayor Anderson asked what is the estimated replacement costs for this project and if it would double the city's flow?

Tondreault said they estimated \$600,000; a MBR system will increase the city's flow with the existing tankage; it can increase up to 3 million to 3.5 million gallons per day.

Discussion continued regarding the specifications/costs to maintain the MBR System and its components, and DEP requirements for operators to run an MBR System.

Tebow continued, presenting Alternative 3. He said it is another conventional approach to expanding the wastewater treatment facility. The expansion would convert the plant's oxidation ditches into diffused air. He went over the benefits which included efficiency and optimization for the current tankage, increasing the number of blowers and piping, providing tighter process control for nutrient removal, and upgrades to the post anoxic tank, which is required for nutrient removal. The cost is like the MBR System.

Discussion continued regarding diffused air, ways to save on building and blower construction, the disadvantages of the city's tankage depth (12'), and create a tapered grid to set up different nutrient zones within the existing deoxidation ditch.

Mayor Anderson asked if they can increase the volume to the deoxidation ditches by going vertical? Tebow said yes, it is an option. However, Kimley-Horn considers it to be a band-aid. Alternatively, if the tank is raised, then the facility is going to need the post anoxic zone for when the treatment process is complete; the post anoxic zone will decrease nitrogen levels because they disconnect it from the process.

Tebow explained how Mayor Anderson's questions relate to Alternative 4. For this alternative, the city does not buy new tankage; instead, all the surface aerators are inside the tankage. Mayor Anderson asked what potential flow can the treatment plant get from Alternative 4? Tondreault said it would still be 2 million gallons per day (2 mgd). He elaborated on how alternatives 1, 3, and 4 all have the same flow potential (2 mgd).

Tebow went over the results of the models. Alternative 4 would require a lot of attention from the operators because ammonia fluctuates throughout the day- operators need to adjust for that ammonia demand when it comes in. It is possible with instrumentation, controls, and blowers; however, models are not a guarantee. Furthermore, the operator's attention is a regulatory requirement of which needs to be considered.

Deputy Mayor Barnard expressed concern for the additional costs and labor going to an automated system, including the expense for training. He asked if Kimley-Horn considered these costs? Tebow replied that the younger generation of operators is more familiar with automation. Alternatively, trainees are learning with older systems that are less automated and are therefore comfortable with it. These are all considerations that the Council will need to decide. Tebow spoke of the MBR System's level of automation and the amount of attention operators need when dealing with process upsets.

Deputy Mayor Barnard asked if he was aware of the number of qualified people available to work with this system; is it an issue of finding someone who is willing to go through the training? Tebow spoke of Lake Placid and how their operators feel about the MBR system; that it is less complicated than an RO Plant. Tondreault spoke of his conversation with Public Works Director Reed and his openness to the idea of MBR technology. Tebow said he does not expect a big ramp up; it is a filter instead of a clarifier.

Deputy Mayor Barnard asked how these options compare to what the City of Sebring is doing? Tondreault was unfamiliar with Sebring's system. Tebow provided examples of where MBR systems are used and how relocation is a resource the city has for recruitment. Mayor Anderson said the Council will get Public Works Director Reed's opinion.

Tebow said Alternative 1 is a viable option and there is existing support; however, it is limiting because it requires more tankage (infrastructure) as opposed to doubling the concentration of microorganisms. Clarifiers have worked well over 100 years. Alternative 1 would require there be more filters added, which are easily accessible.

Mayor Anderson asked if Tebow were to build a 2 mgd plant from scratch; what system would he use? He answered a 5-stage oxidation ditch; for the city, it would mean a new oxidation ditch and relocation of all the tankage. Mayor Anderson asked what the cost would be? Tebow said it would be a lot of money, over \$100 million. Mayor Anderson noted with the proposed alternatives and the city's growth, it is a guarantee that the city should expand its existing plant instead of building a new one.

Tebow said the disadvantage of switching to an MBR system is that it is a change in technology and the city is one of the first municipalities in the area to do it. The benefit is the city can expand capacity- the current concentration is 2,500, which can be increased up to 12,000. Although it is not ideal, the city could always go with Alternative 1, for an eventual change to MBR. However, the city would spend more money doing it this way. Tebow said the non-economic benefit of the MBR system is public perception- it is the best treatment. Additionally, regarding regulatory projections, MBR scored much higher than traditional technology; this includes the oxidation ditch, maintenance and lifecycle costs.

Tebow went over the estimated Net present worth analysis of each Alternative: Alternative 1- \$14.4 million, Alternative 2- \$17.1 million, Alternative 3- \$15.5 million, and Alternative 4- \$15.3 million. Mayor Anderson asked for an approximation for how much more expensive it would be to transition from Alternative 2 to 4 mgd. Tondreault did not have the information; Mayor Anderson said it would be lower than the other three options. Tondreault agreed, adding Alternative 2 offers a lot of savings for anything over 2 mgd because they do not need to install more tankage, clarifiers, or ditches.

City Attorney Buhr spoke of capacity fees and how they could pay for additional tankage. Tondreault said the plant's design is compatible with the MBR build-out. It becomes difficult to add more tanks. A second plant has its own complications with two different biologics and staffing constraints. As of now, the city only has to perform Phase 1 improvements to meet the nitrogen and phosphorus limits; Alternatives 1 through 3 were all similar for Phase 1.

Tebow presented an Economic and Non-economic evaluation for each alternative. He explained how the analysis considers effluent quality and future expansion. Deputy Mayor Barnard asked if each alternative ensures that the city will not have to build another water treatment plant; they will just build off of the existing plant? Tondreault said that is correct. Mayor Anderson asked if 2 mgd, in their opinion, will give the city at least 20-years? Tondreault said yes.

Mayor Anderson said realistically the city needs grant funding to move forward with any of the major projects. There are smaller projects that the city may be able to take care of in the next few years but grant funding is a priority. He asked what are the chances the city can get a grant for the bigger projects? Tondreault was optimistic, saying especially on the treatment plant improvements. There has been over \$20 million awarded. He said there is another grant cycle coming up- one of which can be-

used for nutrient reduction and moving with an advanced wastewater treatment plant. Tondreault talked about Lake Placid's grant awards.

Mayor Anderson asked if they usually offer grant opportunities for treatment plants in critical condition? City Manager Schrader said he believed they mandated Lake Placid to install sewer lines as they are now on septic systems, which is why they may have received the grant. Unlike Avon Park who already has sewer. City Attorney Buhr added to this and spoke of how septic systems destroy lakes. City Manager Schrader noted that Tondreault has been great for sending information to the city about possible grants, adding that Tondreault does great work for the city.

Mayor Anderson said the Council's primary goal is to install waterlines out to Avon Park Lakes because homes already exist and there is a guaranteed customer base. He asked are there any grants available for such a project? Tondreault said he could not speak to that. There is a lot of funding available for the transition from septic to sewer. Discussion continued regarding grants awarded to Alachua County.

Mayor Anderson asked regarding the cake hauling; is there any benefit or savings to have in-house hauling? Tondreault said they can perform an economic analysis. Mayor Anderson spoke of other cities who process their own cake; he asked what size would a city have to be to benefit from this process? Tebow said Avon Park is big enough now.

Discussion continued about the septage process, selling the city's cake hauls to surrounding towns, and how larger holding tanks will increase the number of solids processed by the treatment plant. Mayor Anderson said we cannot apply for grant funds without having projects included in the CIP. He said the Council will need to hear from Public Works Director Reed about his opinion of the recommended projects. He suggested putting as much as possible in the CIP. Additionally, the Council placed a moratorium on water lines until we drafted a Master Plan. They did this to understand which customers can be served when requests are made. He asked would it come from Kimley-Horn or Reed? City Manager Schrader said he wants Reed to get with Tondreault because he had the same question.

Tondreault added they can fund the water treatment plant through the State Revolving Fund (SRF). There is a deadline; the city will need to come up with a selection as part of that plan. He said the Council should decide on a recommendation by the end of the month. Discussion continued regarding the deadline, the city operators' opinions on which alternative to move forward with, and the Council's agreement that Alternative 1 or 2 are the best options.

Deputy Mayor Barnard asked what the timeline would be to move forward once the Council confirms which direction they want to take. Tebow said it would take about a year to get the funding, then a year for the design.

C. ADJOURN:

Meeting adjourned at 8:11 p.m.

ATTEST: CITY OF AVON PARK:

Christian Hardman, City Clerk

Garrett Anderson, Mayor

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CITY OF AVON PARK
Highlands County, Florida

MINUTES OF THE CITY COUNCIL REGULAR MEETING
August 29, 2022, at 6:00 p.m.

A. OPENING: CTO – 6:00 PM

1. Invocation: Member Brittany McGuire
2. Pledge of Allegiance: Member Brittany McGuire
3. Roll Call: City Clerk, Christian Hardman

COUNCIL MEMBERS PRESENT: Member Brittany McGuire
 Member Shelly Mercure
 Member Berniece Taylor
 Deputy Mayor Jim Barnard
 Mayor Garrett Anderson

COUNCIL MEMBERS ABSENT:

STAFF PRESENT: City Attorney, Gerald Buhr
 City Manager, Mark Schrader
 City Clerk, Christian Hardman
 Code Enforcement Supervisor, Randy LaBelle
 Finance Director, Melody Sauerhafer
 Fire Chief, Andy Marcy
 Human Resources Director, David Shoup
 Public Works Director, Rick Reed [ZOOM]

Mayor Anderson said public participation would adhere to the city's code; the Council would allow each speaker 5-minutes.

B. CITIZENS/OUTSIDE AGENCIES:

C. CONSENT AGENDA:

4. Minutes, July 25, 2022, City Council Special Meeting- City Clerk, Christian Hardman
 - Minutes, August 8, 2022, City Council Regular Meeting
 - Minutes, August 15, 2022, City Council Special Meeting (Durrh Martin Baseball Complex)
 - Minutes, August 15, 2022, City Council Special Meeting (MLK Jr. Sports Complex)

MOTION, made by Deputy Mayor Barnard and seconded by Councilmember Mercure, to approve agenda item "C-4."

AYE: McGuire, Mercure, Taylor, Barnard, Anderson

NAY:

Motion Passed: 5-0

D. ACTION AGENDA:

5. First Reading: Ordinance No. 14-2022 and Ordinance No. 15-2022 Amending the Future Land Use and Official Zoning Map for 915 Dyal Street, - CFRPC, Brenda Torress

City Attorney Buhr read the short title for Ordinance 14-2022 respectively.

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF AVON PARK, FLORIDA; AMENDING ONE (1) PARCEL OF LAND CONSISTING OF +/-1.30 ACRES GENERALLY LOCATED EAST OF US HIGHWAY 27, NORTH OF WEST BELL STREET, AT THE SOUTHEAST CORNER OF THE INTERSECTION OF SOUTH ANOKA AVENUE AND DYAL STREET, ADDRESS BEING 915 DYAL STREET; FROM THE FUTURE LAND USE OF LOW DENSITY RESIDENTIAL (LDR) TO CITY MEDIUM DENSITY RESIDENTIAL (MDR); TRANSMITTING SAID AMENDMENT TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY FOR NOTIFICATION PURPOSES ONLY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Brenda Torres of the Central Florida Regional Planning Council (CFRPC) covered the proposed future land use and rezoning amendment for 915 Dyal Street, provided to the Council in their agenda packet. She explained the existing and proposed future land use for the property. Torres also went over the land use compatibility.

Mayor Anderson noted the Planning and Zoning Board recommended the ordinance for approval. Torres said that is correct. Mayor Anderson pointed out how the Council rezoned property located to the south as R-3.

Councilmember McGuire said one photo shows existing structures on the property. Torres believed they will demolish the structures to make room for 4-duplexes.

MOTION, made by Deputy Mayor Barnard and seconded by Councilmember Taylor, to approve agenda item "D-5," Ordinance No. 14-2022.

AYE: McGuire, Mercure, Taylor Barnard, Anderson

NAY:

Motion Passed: 5-0

City Attorney Buhr read the short title for Ordinance 15-2022 respectively.

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF AVON PARK, FLORIDA, AMENDING ONE (1) PARCEL OF LAND CONSISTING OF +/-1.30 ACRES GENERALLY LOCATED EAST OF US HIGHWAY 27, NORTH OF WEST BELL STREET, AT THE SOUTHEAST CORNER OF THE INTERSECTION OF SOUTH ANOKA AVENUE AND DYAL STREET, ADDRESS BEING 915 DYAL STREET; FROM THE-

ZONING OF R-1A LOW DENSITY RESIDENTIAL TO R-2 MEDIUM DENSITY, SINGLE FAMILY ATTACHED AND DUPLEX; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

MOTION, made by Deputy Mayor Barnard and seconded by Councilmember Taylor, to approve Ordinance No. 15-2022.

AYE: McGuire, Mercure, Taylor Barnard, Anderson

NAY:

Motion Passed: 5-0

6. **Petition to Reduce Lien for Code Enforcement Penalties- Code Enforcement Supervisor, Randy LaBelle**

Code Enforcement Supervisor LaBelle covered the details of a petition to reduce a lien for Code Enforcement penalties. The applicant, Philip Riley of 402 WL Kirkland, paid \$325 for the deposit and application fee. LaBelle said this request differs from others because the lien came not from a running fine. The city attributes the costs to demolition of a structure and 5-separate abatements performed for tall grass. LaBelle detailed the hearing before the special magistrate. The special magistrate agreed to Mr. Riley's request for a 90% lien reduction. Mr. Riley did not own the property when the violations occurred.

Mayor Anderson said the total cost of the original lien is \$4,943.64; a 90% reduction would reduce the amount to \$494.37. He asked if LaBelle agreed with the special magistrate's assessment. LaBelle said Mr. Riley was cordial; however, he disagreed with reducing the lien because it occurred through hard costs. These costs represent city funds that were spent in 2015 which the city has not recuperated. City Attorney Buhr suggested the Council modify the policy to exclude hard costs; they may make an approval now.

Mayor Anderson asked if the property changed ownership. LaBelle said yes, adding from his understanding Mr. Riley intended to flip the property.

Philip Riley of 1723 Alma Lane, Lake Placid, said he bought the property and did not know there was a lien. Mr. Riley said he brought the property into compliance except for paying the lien, hoping the Council would reduce the amount. Mayor Anderson asked what is his intention for the property. Mr. Riley said he has already sold it; and the new owner is aware of the lien. Mayor Anderson asked if the title has already changed hands. Mr. Riley said yes.

City Attorney Buhr asked if the previous owner collects additional money from the sale? Mr. Riley said no; he said he purchased the property at a tax deed sale. Mayor Anderson asked in this case, does Mr. Riley qualify as the applicant, considering he sold the property? City Attorney Buhr said he is still the applicant since he purchased the property from the violators. Noting, it raises an interesting question that the Council should clarify in a future resolution; along with hard costs.

Discussion continued regarding the lien's passage from the seller to the buyer upon purchase. Mayor Anderson pointed out how the lien essentially is assigned to the new owner, not Mr. Riley. City Attorney Buhr agreed. Mayor Anderson asked how is he able to apply for the reduction in that case? City Attorney Buhr asked if Mr. Riley applied before the sale. He said yes.

Councilmember Taylor said the Council should treat everyone the same. Everyone who requested a lien reduction before Mr. Riley had to pay the lien according to the code enforcement matrix. She asked why should the Council do anything different; if they approved the reduction, then the Council should reimburse those who applied before- up to 90%.

Mayor Anderson said the Council is discussing how the lien represents actual hard costs. For example, if the city assigned a lien for high grass, then that fee can accrue. It may add up to thousands of dollars, despite the city not incurring any costs other than to mow the grass. Here, the city demolished a structure, and the cleanup was substantial. The city's actual costs were over \$4,000. Councilmember Taylor asked if the Council approved the reduction, then the city will not recuperate the funds spent. Mayor Anderson said that is correct.

Councilmember Mercure proposed revisiting the policy by resolution; the application should be under the new owner's name. Mayor Anderson said he does not think the Council should make them reapply because the applicant applied before the change of ownership.

Councilmember McGuire agreed with LaBelle's recommendation, considering the substantial cost of demolition. She said mowing incurred an additional expense in labor and use of equipment. She felt strongly that Mr. Riley should at least pay for the demolition. It added to the value of the property with the removal of blight. Mayor Anderson agreed.

Councilmember Mercure felt they should postpone a decision until after the Council revisits the policy. Councilmember Taylor asked why revisit the policy? Mayor Anderson said, because it does not distinguish between hard and administrative costs. It is a unique case because they have not considered it before since the policy was enacted

City Manager Schrader said the CRA Board (which is also the Council) approved the use of CRA funds for demolitions. He asked in the future- when the city uses CRA funding for demolitions, would they not want to recuperate the costs? Mayor Anderson and Councilmember Taylor agreed. Mayor Anderson said they should pay hard costs; accrued fees should be negotiable.

Discussion continued regarding hard costs, during which Mayor Anderson recommended postponing a decision until they revisit the policy; or deny the request, then update the policy. Deputy Mayor Barnard agreed, saying at the very least, the city should recuperate the cost for the demolition. Since it is an unusual case, he has no problem with modifying the policy.

Mr. Riley asked how to proceed and who will need to come before the Council? Mayor Anderson said his name is on the application; he does not have to show up but they encourage it.

MOTION, made by Deputy Mayor Barnard and seconded by Councilmember Mercure, to postpone the petition for lien reduction indefinitely.

AYE: McGuire, Mercure, Taylor, Barnard, Anderson

NAY:

Motion Passed: 5-0

City Attorney Buhr presumed the Council wanted to revise the policy to remove hard costs before adjusting future liens. He said the purpose is not to make money off of liens. He stated, as noted by the city manager, the city will be able to recuperate the CRA funds, to used for future demolitions.

Mayor Anderson asked if the staff will put in applications to the CRA Board for future demolitions. City Manager Schrader said yes. Deputy Mayor Barnard asked if they can retroactively apply for CRA funds for this case? Mayor Anderson said no, the city cannot use CRA funds for past projects. City Attorney Buhr agreed, adding it also needs to be within a CRA District. City Manager Schrader noted the funds used in this particular case came from the general fund.

7. Accept Florida Firefighters Cancer Decontamination Equipment Grant- Fire Chief Marcy

Chief Marcy said the grant award is for machinery used to decontaminate firefighters' facemasks, helmets, and equipment. The grant is for 75% of the cost, which means the city will have to pay for the balance- \$12,000 (which includes delivery).

Motion, made by Councilmember Mercure, and seconded by Councilmember McGuire to approve agenda item "D-7," to accept the grant.

AYE: McGuire, Mercure, Taylor, Barnard, Anderson

NAY:

Motion Passed: 5-0

8. Lease of Xerox Copiers/Printers/Scanners- Finance Director, Melody Sauerhafer

Finance Director Sauerhafer went over 6-lease agreements with Xerox which was included in the Council's agenda packets. She presented dates of expiration, new lease durations, and explained the price differences between the current and proposed leases.

Mayor Anderson asked for more detail concerning the quality of the existing units. She said the city is using Toshiba copiers. These units experience frequent problems. Staff believes Xerox will be better with responsiveness to call-outs and the quality of the equipment.

Deputy Mayor Barnard asked why the unit for Code Enforcement costs more? Sauerhafer said it is a bigger machine with more functions.

Councilmember Taylor asked if the monthly cost for the Xerox units was \$778.00. She said yes, for all 6-leases. Councilmember Taylor asked if they charge interest? Sauerhafer said no, it is just the lease which includes toner supplies. Councilmember Taylor asked if the city's contract will be the same as the county? Sauerhafer said yes because the city is piggybacking off a county contract.

Councilmember McGuire asked for clarification on the cost per image; she asked how it compares to Toshiba's pricing? Sauerhafer said there is a cost per image which varies; she agreed to get the details back to the Council. She believed it was comparable.

Motion, made by Deputy Mayor Barnard, and seconded by Councilmember Mercure to approve agenda item, "D-8," for all Xerox lease agreements.

AYE: McGuire, Mercure, Taylor, Barnard, Anderson

NAY:

Motion Passed: 5-0

9. 2022-2023 Health Insurance Selection- Human Resources Director, David Shoup

Human Resources Director Shoup introduced Danny Page, Vice President for Acentria. Danny Page presented the renewal options for the 2022-2023 Health Insurance, provided to the Council in their agenda packets. Page spoke of the renewal, the impact of COVID-19 on health insurance premiums, the amount of insurance claims coming through, and the history of the city's insurance coverage.

Page recommended moving forward with Aetna; quotes received from Florida Blue and United Health Care were equal to or higher than the proposed renewal. Aetna is increasing their rates; however, they gave the city a one-month premium holiday- meaning coverage will be free for the month of October. The premium holiday represents roughly \$52,000, which reduces the overall renewal. The rate adjustments will all depend on how the Council wants to shift deductibles, co-pays, etc. With that said, there are significant changes to co-pays and deductibles.

Deputy Mayor Barnard asked for clarification on which plan Page was referencing. Page said in the documentation he provided; Aetna had 3 sets of alternates. He explained how there are adjustments the Council can make to save on ancillary benefits, such as vision and dental; however, the effects on dependent coverage are substantial.

Human Resources Director Shoup said he made a comparison sheet similar to what Page sent to the Council by email. It compares the current rates with the individual plan renewal options. Shoup explained the worksheet provides data on all the primary coverage under the current plan, everything that was more/less, and the comparable plans.

Page said adjusting the deductible and out-of-pocket maximums will lead to the most significant premium reductions. For example, if the Council moved the HSA deductible from \$2,000 to \$5,000, it has the most impact on reducing insurance rates. Another option is to take the savings from the premium holiday and deposit it into an HSA or HRA account to offset costs to the employees. The Council can also choose not to shift the plans as much.

Mayor Anderson went over the details of the worksheet provided to the Council. He asked Mr. Page what is his top 3 recommendations? Page said in his opinion, staying with Aetna and shifting the HSA plan deductible from \$2,000 to \$5,000. Doing so would make the rate increase to the city 18% instead of 42%. The deductibles for the midlevel plan- which a majority of the employees fall under - would increase from \$1,500 to \$3,500. The deductible for the high-level plan would increase from \$500 to \$2,000. Page said his suggestion is the best option, considering Aetna offered the premium holiday. Also, Cigna, FMIT- Florida League of Cities, and three other insurance carriers declined to quote.

Mayor Anderson asked what the employee costs are under the recommended plan? Page said the HSA plan will increase from \$402 to \$418; the midlevel plan will increase from \$510 to \$649, and the high-level plan will increase from \$570 to \$666.

Mayor Anderson asked what is Page's second recommendation? Page said the alternative would be to shift the deductible on the HSA plan from \$2,000 to \$4,000; the deductible for the midlevel plan would increase from \$1,500 to \$2,500. The deductible for the high-level plan would increase from \$500 to \$1,500. Page explained the cost to employees: the HSA plan would increase from \$402 to \$485; the midlevel plan would increase from \$510 to \$617. The high-level plan would increase from \$570 to \$648. Essentially, this option would be a middle ground. Doing so would make the rate increase to the city 19.5%.

Discussion continued regarding the city's previous insurance rates, the creation and function of the HSA plan, and how the decrease in the number of employees affected insurance rates.

Deputy Mayor Barnard asked if the increase percentage is higher than what Finance budgeted? Sauerhafer said yes; she budgeted for a 15% increase. Deputy Mayor Barnard spoke of the difficulties with insurance premiums and rising costs. He believes working with an insurance broker is best because it provides more options. Deputy Mayor Barnard said he liked the idea of moving forward with Aetna's offer of a premium holiday.

Mayor Anderson asked Shoup his opinion. He responded that when discussing it with Sauerhafer, they both agreed with alternate 2 for employees. They made that decision without knowing about Aetna's offer. Deputy Mayor Barnard said at least with Aetna the same doctors and hospital will be available to employees.

Page said he included additional information in the Council's agenda packet about Redirect Health, a self-funded program. In the future, they might want to consider a workshop to consider Redirect Health because any doctor is in their plan. They negotiate with providers for services. He said once the number of employees is over 100, even more options will be available.

Councilmember Taylor asked what employees say about the insurance coverage? Shoup said employees have told him it is bad. Employees must put out a lot more of their own money. It is not employees with the HSA coverage but those that fall under the mid to high-level plans. However, he is unaware of their circumstances- for example, health issues and the costs associated with lab work, etc. Their biggest concern is for medical facilities charging for services when they have not met their deductibles.

Deputy Mayor Barnard said the co-pays for the plan are comparable to the rates he pays for his own insurance coverage.

Motion, made by Deputy Mayor Barnard, and seconded by Councilmember McGuire to select Alternative #2- the OAEPO 2500 plan under Aetna.

AYE: McGuire, Mercure, Taylor, Barnard, Anderson

NAY:

Motion Passed: 5-0

E. STAFF UPDATES/ADMINISTRATION:

10. WWTP Facility Plan- Public Works Director, Rick Reed

Mayor Anderson said the discussion relates to the Special Meeting, held August 15, 2022, with Jamison Tondreault of Kimley-Horn. During those discussions, the Council waited to hear- from Public Works Director Reed before deciding. Reed's recommendation is to go with Alternative 2 (details provided on page 197 of the Council's packet)

Reed said he agrees to move forward with the MBR (Membrane) system. He met with the operators and they visited other plants. Considering the system's footprint and the future growth of the plant- in the long run, the MBR is the system is what he would recommend. Mayor Anderson said the MBR system allows the city to keep the same footprint while almost quadrupling the city's flow (mgd). Scenario 1 will require all new tankage; there is a question on whether there is enough of a footprint to substantiate building more tanks. He said the MBR system is cleaner. With regulations for water treatment becoming more stringent, the city is going to need a cleaner system without installing a great deal of infrastructure. The MBR system fits this need best.

Mayor Anderson went over the totals for replacement costs; Scenario 1 (installing new tankage) Kimley-Horn projected the cost at \$600,000- the total project cost is \$15 million. Scenario 2- the MBR System, Kimley-Horn estimated a total project cost of \$17.1 million. He said chances are we will do neither project without significant grant funding. Although they are not moving forward yet, the Council needs to give Kimley-Horn an answer and get it in the Capital Improvement Plan (CIP) to apply for grant funds.

Reed said another reason they want to move forward with the MBR System is there is more local support. When there are complications, the city will not have to wait for someone to come here from out of state, with the city paying the expense. Having local support will reduce the time for repairs. They will have their own tools and vehicles to provide servicing and repairs.

Councilmember McGuire thought that with Scenario 2, there may be more grant opportunities available because it is a newer, cleaner system. It may also bring in new employees who are used to working with this type of technology. Mayor Anderson said his only concern was that staff may not want to work with a newer system; however, after meeting with Reed, he felt staff was excited to move forward with this technology. A lot of larger cities are transitioning to this system.

Councilmember McGuire said her research showed one downfall; if we do not train staff properly, there could be an enormous expense for replacements. She wanted to make sure we give proper training to staff. Mayor Anderson noted there are local representatives who are available; it is a better opportunity for them to work together. Reed said with the MBR System there will be training. There is also an online portal for any issues. Existing operators will train new operators; however, any major change in the plant will come with training and help from the engineers.

City Manager Schrader asked Reed what the operators have told him about which system they want to go with. Reed said John Martinez (operator) and himself visited an MBR System in Charlotte County. It was a 10-year program and they are now entering their 12th year. It looks like they will reach 15-years. Martinez was impressed with the system; it has a small footprint of which the transition to an MBR system did not require an expansion. Additionally, they can add more cartridges if need be. Each operator has been involved with this project and are excited to move forward. City Attorney Buhr said the city should raise capacity fees to help pay for the new system.

Motion, made by Deputy Mayor Barnard, and seconded by Councilmember McGuire to select Scenario 2.

AYE: McGuire, Mercure, Taylor, Barnard, Anderson

NAY:

Motion Passed: 5-0

11. Budget Additions- Finance Director, Melody Sauerhafer

Sauerhafer went over the Budget Additions included in the Council's agenda packets. The requested additions were for the General fund, Water/Sewer fund, and the Sanitation fund. Increases in the General and Water/Sewer fund were for vehicle repairs caused by hail damage. Insurance reimbursements will offset the expense. She requested the Council's approval to use leftover funding from the Audio/Video equipment to pay for the Fire Department's gear washer and the administration fees for the CDBG Fire Station Hardening and Drinking Water grants at \$5,000 each.

Sauerhafer said the additions for the Sanitation fund is for Diesel. The increase is because of the rise in fuel costs and the fact that the city's landfill has been closed; thus, the trucks must travel to the Lorida (County) landfill.

Regarding the city's vehicle insurance, Deputy Mayor Barnard asked if we have gotten a new contract with them, related to the hail damage? Shoup said Matt Baker from Thompson Baker Insurance said they are reviewing the contract. There is a minor change in worker's compensation; however, he did not believe there will be a major difference in coverage for adding or removing vehicles.

Motion, made by Deputy Mayor Barnard, and seconded by Councilmember McGuire to approve the Budget Additions under agenda item, "E-11."

AYE: McGuire, Mercure, Taylor, Barnard, Anderson

NAY:

Motion Passed: 5-0

F. ATTORNEY UPDATES:

G. COUNCIL DISCUSSION/UPDATES:

12. Planning and Zoning Board Members- Mayor Anderson

Mayor Anderson said there were recent changes to the code allowing for business owners to apply for the Planning and Zoning Board (P&Z). Three applicants have come forward. Regarding the current P&Z Board, Carol West resigned and Alvin Dallas has not attended a meeting in a long time. Mayor Anderson recommended removing Dallas from the board; thus, making two vacancies on the P&Z board. The Council may consider removing another board member to approve all three applicants, then revisit the discussion in a few of months or take a phased approach to make sure there are not too many new members all at once

Deputy Mayor Barnard said he reviewed each application and references. He knows some applicants and believes all three are qualified, business minded candidates who would do a great job. If the Council chooses not to accept all three, then one applicant can be on standby for future reference. He mentioned an opening on the CRA Advisory Board.

Mayor Anderson said the P&Z Board is the most important board for the city, other than the Council. The board serves many important functions and their decisions control the growth and tone of businesses in the city. He said we need people to serve who show up to the meetings. There are issues with attendance; he recommended the Council continue to put people on the P&Z board until they resolve attendance. If they approve 2 out of 3 applicants, then they should revisit the discussion in a couple of months. We should keep applications on file, creating a sufficient pool to choose from.

Councilmember McGuire asked if the staff spoke with all members on the P&Z board to see if they were interested in stepping down. The City Clerk said no. Councilmember McGuire said at the last meeting (August 9th) we almost did not have a quorum.

Discussion continued regarding the attendance record provided to the Council in their agenda packets.

City Manager Schrader said there are many meetings where we have to wait for enough members to arrive (to have a quorum), well after the posted start time. Basically, we never know if there will be a quorum. Councilmember McGuire said at the August 9th meeting, there were 3 members of the board and Sebrena Blake (an alternate) in attendance. The City Clerk said typically it is the alternates who attend; specifically, Ms. Blake. Mayor Anderson said if there are seven members on the board, then all should be in attendance.

Councilmember Mercure asked if the Council removes a member, would they move an alternate up? Mayor Anderson said no alternatives serve in case a member is absent.

Jason Miller (P&Z Chairperson) said Dallas has not attended a meeting for quite some time. He only attended 2 or 3 meetings after his appointment. Miller said he would gladly welcome more members, but they need to be on time. Mayor Anderson asked his recommendation on whether to remove an existing member or if he was satisfied with the current board? Miller said there is currently a good group; some have served for an extended period and others want to step back a bit.

Councilmember McGuire asked if he was aware which member wanted to step back? Miller said Roger Gurganus and Jean Jordan have served for a long time and have passed their positions (chair and vice chair) on to other members. He was unsure if they would be comfortable stepping down; suggesting the Council speak with them directly.

Discussion continued regarding member tardiness and what the Council is looking for in P&Z board members.

Mayor Anderson said out of the options, removing Dallas seems to be a given and Carol West has already resigned. He was in favor of removing Members Jordan and Gurganus to give all the applicants an opportunity to serve. If the Council takes this action, then there would still be one-

vacancy. If the Council wants to be conservative, then they can remove Dallas and fill Carol West's vacancy. Deputy Mayor Barnard favored the conservative approach. It would give the other members notice of the Council's considerations.

Discussion continued regarding the applicants and their interests in the city as business owners. The Council asked if any applicants wished to speak.

Daniel Sauls of 12 S. Forest Avenue spoke of his project at the Brickell Building and his vested interest in the city. He said he would love to serve at the Council's behest. Deputy Mayor Barnard asked if he has ideas on which way the city should continue to grow? Mr. Sauls said, keeping decisions as business-friendly as possible. He feels the city is pretty much there; however, it is easier when there is a board that will make tough decisions to better the community. Deputy Mayor Barnard expressed his gratitude to Mr. Sauls for the work he has already done.

Laura Wade of 21 W. Main Street, said she is co-owner of Pure Grit Boot Company and The Diving Girl Restaurant. She believes in the city and always recommends it to business owners; especially downtown. Ms. Wade is originally from Avon Park; she used to run the Chamber of Commerce. She said it is nice to see citizens and new-blood interested in serving. Ms. Wade said if they do not choose her tonight, she will stay on standby.

Eric Marshall of 607 N. Verona Avenue owns a drafting company and has done a lot of work in the county and the city. He has lived in the city almost 20-years. Mr. Marshall said he loves the city and has no inclination to leave. He thinks the P&Z board is one of the dominant entities that will support growth in the city; it is one of the main reasons they have held the city back to some extent. He felt the city may have grown at a faster rate if some requests could pass; especially in the downtown area. Deputy Mayor Barnard said he reviewed Mr. Marshall's references; one of which is a good friend. He trusts his opinion.

Councilmember Mercure suggested deciding and going back to the P&Z board to see if anyone will step down to allow the third applicant to serve. She felt the decision will be hard because each applicant has a lot of energy. Mayor Anderson agreed.

Councilmember Taylor said the Council already asked the P&Z Board members if any will step down. It was obvious they were not happy about it. Councilmember Mercure thought perhaps they might have changed their minds. Councilmember Taylor said they did not give her the impression that they will step down. Councilmember McGuire asked her suggestion. Councilmember Taylor said to move forward with the two applicants- approving the individuals who submitted their application first. Then the Council can go to the P&Z Board to see if anyone will step down; bringing in the third applicant.

Mayor Anderson asked which order the applicants submitted their applications. The City Clerk said Mr. Marshall- April 29, 2022, Mr. Sauls-May 2, 2022, and Ms. Wade-May 16, 2022.

Motion, made by Deputy Mayor Barnard, and seconded by Councilmember Mercure to remove Alvin Dallas from the Planning and Zoning Board; approving Eric Marshall and Daniel Sauls.

AYE: McGuire, Mercure, Taylor, Barnard, Anderson

NAY:

Motion Passed: 5-0

Councilmember McGuire suggested keeping a record of attendance for upcoming P&Z meetings to aid in their decision.

Mayor Anderson asked if the Council wants to ask if anyone will resign so they can discuss it earlier or do they want to set a date? Councilmember Mercure said she prefers to check with the board members. Councilmember McGuire proposed asking if they will step down; if someone does, then place Ms. Wade. If they do not volunteer, then set a date. Mayor Anderson asked staff to follow up with the board members by the next meeting; advising the Council needs a response before the September 12th meeting.

H. CITY MANAGER'S REPORT:

13. Regular Updates from the City Manager

City Manager Schrader reported that Bird Scooters has taken the scooters out of the city. Per his conversation with Dan Feathers (Legacy Bicycles), they pulled them out for a couple reasons; one reason is that Sebring had twice as many units out, as Avon Park, and they receive very few complaints. There have been many complaints from Avon Park residents about where the scooters were located. However, the main reason is it did not earn enough revenue; noting that the week before they pulled out, Bird Scooters made \$100 but had spent \$370 paying employees to retrieve the units. Mr. Feathers said they may decide to try again in the future. But, for now it was not cost effective.

Councilmember Mercure asked if they can try to put them up at different times of the year, for younger people? She said they worked out well when the scooters first arrived.

City Manager Schrader continued his report, stating the city received a Small County Outreach Program grant. The award is for \$360,006, for FY 2023/2024. He noted that Carl Cool (Cool and Cobb, Engineering) helped with the scope of work for the grant. This grant is for Anoka Boulevard from Lock Street to WL Kirkland.

Regarding the grant awards (noted in their packets), he received an email from Congressman Steube's Office stating the city would be receiving \$2.1 million for the Rehabilitation of the Apron. Kimley-Horn completed the apron design in 2021. It is needed because it turned out the Apron is in a lot worse condition than was anticipated.

The city also received notice the city would be receiving \$432,000 for the AIP Due Diligence grant. City Manager Schrader said he later received an email from the Orlando FAA office, stating the city still had not turned in everything, in order to apply for the grant. We had learned from the FAA the city could receive up to \$750,000 (due diligence grant) to pay for Kimley-Horn's survey and design, etc., besides the fees for the city's outside counsel. After being worked up by Lowell Clary (outside consultant), the anticipated fees came in at about \$724,000. As of today, the city received word from the FAA stating they had not received the documentation from the city. However, Melody had emailed it to Orlando office on August 18th. It was learned that her email (sent on August 18th) went to their (FAA's) spam file, for unknown reasons. As a result, he (city manager) has scheduled a virtual meeting tomorrow morning, with Sauerhafer, Miguel and other members of the Orlando-

FAA office, Lowell Clary, and himself because the city is running short on time to apply for the grant.

City Manager Schrader concluded his report, stating that Dr. Danzey resigned from the CRA Advisory board (his letter was in the council packet). Dr. Danzey said he has served for 15-years and wants to spend more time with his family. Mayor Anderson asked staff to put it out on the website, then inquired whether all vacancies for city boards are listed? The City Clerk said yes, except for the mentioned resignation.

Councilmember Taylor asked for an update on the Department of Corrections (DOC) Inmate contract, with COVID winding down? City Manager Schrader said DOC's pulling of all the inmates (statewide) from outside work-crews, started in reference to COVID; however, it continued, and remains the same because DOC is very short staffed, noting they do not have enough correctional officers.

I. PUBLIC PARTICIPATION:

Mayor Anderson said for public participation, citizen -Samantha Mootoosammy provided documentation to the Council via email and a separate handout (2 pages).

Samantha Mootoosammy, said for security reasons she will not disclose her address. She said she has been an Avon Park resident for over 20-years. She wished to address the Council regarding a notice from Code Enforcement Officer Salinas in reference to a permit, received August 15th. Her husband spoke with Randy LaBelle. His comments disappointed her, and she felt he could have handled it better. Ms. Mootoosammy feels she is being targeted. She discussed her documentation for permitting.

Mayor Anderson asked what she was asking the Council to accomplish. Ms. Mootoosammy said she does not want Code Enforcement Officer Salinas around her property. Deputy Mayor Barnard asked for clarification on the permit. Ms. Mootoosammy provided a copy of the permit and the engineering plan for the work at her home.

LaBelle provided details for events leading up to the notice, his research into the permit, including speaking to Lisa at County permitting, who told him there was no current permit pulled for 925 W. Pine Street, that the last one pulled at this address was in 2018 for a driveway. LaBelle said the thing that started all this with Mootoosammy was simply a doorhanger left by code enforcement at her residence requesting the resident call the code enforcement office in reference to their property. LaBelle then spoke to Mootoosammy and her husband, who started by asking if it was his neighbor who called in, using derogatory language when referring to this neighbor. LaBelle told him it was not his neighbor; it was he who noted the possible violation.

LaBelle went over his conversation with Eric Longshore (County building inspector) confirming if a permit had been issued, and his conversation with Ms. Mootoosammy's husband. Mayor Anderson asked if the permit number provided by Longshore matched what Ms. Mootoosammy gave to the Council (in her handout)? He said the house number she provided was 925, but the house number on the permit was 923. They may not have caught it if LaBelle asked for 925. LaBelle said code enforcement issued no citation, they just asked if she could clarify it. Mayor Anderson asked if he-

is aware of any violations presently? LaBelle said no, everything is fine. Mayor Anderson said Ms. Mootoosammy is not being accused or cited for anything at this point.

Discussion continued regarding Ms. Mootoosammy's permit and its visibility on the Highlands County permitting website, which is not blocked. Councilmember McGuire noted she found the permit under the permit number, as it did not come up under the address.

J. ADJOURN:

1. The Next City Council Regular Meeting is Scheduled for Monday, September 12, 2022, at 6:00 p.m.

Meeting adjourned at 7:54 p.m.

ATTEST: CITY OF AVON PARK:

Christian Hardman, City Clerk

Garrett Anderson, Mayor

Agenda Item Summary

Date of Action: September 12, 2022

Subject: Public Hearing, Second Reading: Ordinance No. 14-2022 and Ordinance No. 15-2022 Amending the Future Land Use and Official Zoning Map for 915 Dyal Street

Item No.: D-7

Placed on Agenda by: CFRPC, Jeff Schmucker

Staff Review: Yes

Attorney Review:

Recommended Motion(s): See City Council Motion Options- CFRPC Overview Report

Documentation:

- Ordinance No. 14-2022
- Ordinance No. 15-2022
- CFRPC Overview Report

Background:

See CFRPC Overview Report

ORDINANCE NO. 14-2022

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF AVON PARK, FLORIDA; AMENDING ONE (1) PARCEL OF LAND CONSISTING OF +/-1.30 ACRES GENERALLY LOCATED EAST OF US HIGHWAY 27, NORTH OF WEST BELL STREET, AT THE SOUTHEAST CORNER OF THE INTERSECTION OF SOUTH ANOKA AVENUE AND DYAL STREET, ADDRESS BEING 915 DYAL STREET; FROM THE FUTURE LAND USE OF LOW DENSITY RESIDENTIAL (LDR) TO CITY MEDIUM DENSITY RESIDENTIAL (MDR); TRANSMITTING SAID AMENDMENT TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY FOR NOTIFICATION PURPOSES ONLY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Sections 163.3161 through 163.3215, Florida Statutes, the Community Planning Act, empowers and mandates the City of Avon Park, Florida, to plan for future development and growth and to adopt and amend comprehensive plans, or elements or portions thereof, to guide the future growth and development of the City; and

WHEREAS, Mr. Fitzroy Gardener ('applicant') has requested to amend the Future Land Use assignment of one (1) parcel of land consisting of +/-1.30 acres, from Low Density Residential to Medium Density Residential, on property generally located east of US Hwy 27, north of West Bell Street, at the southeast corner of the intersection of South Anoka Avenue and Dyal Street, further identified by Parcel Identification Number A-22-33-28-210-0000-0020, as shown in Exhibit "A" attached herein; and

WHEREAS, pursuant to Section 163.3187, Florida Statutes, the City Council held a public hearing on the Future Land Use Map Amendment as shown in Exhibit "A", with due public notice having been provided, to obtain public comment, and considered all written and oral comments received during public hearings, including support documents; and

WHEREAS, in exercise of its authority the City Council has determined it necessary to adopt this Map Amendment to the Comprehensive Plan, which is marked as Exhibit "A" and is attached and made a part hereof to ensure that the Plan is in full compliance with the Laws of the State of Florida; to preserve and enhance present advantages; encourage the most appropriate use of land, water and resources consistent with the public interest; and deal effectively with future problems that may result from the use and development of land within the City of Avon Park.

NOW, THEREFORE, be it enacted by the City Council of the City of Avon Park, Florida, as follows:

Section 1. **Amendment to the Future Land Use Map:** The Future Land Use Map of the City's Comprehensive Plan is hereby amended to assign the Future Land Use of "Medium Density Residential" to the subject parcel generally located east of US Hwy 27, north of West Bell Street, at the southeast corner of the intersection of South Anoka Avenue and Dyal Street, further identified by Parcel Identification Number A-22-33-28-210-0000-0020, consisting of +/-1.30 acres, as shown in Exhibit "A" which is attached and made a part hereof.

Section 2. **Severability:** If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

Section 3. All existing ordinances or parts of existing ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. **Certified Copy:** An official, true, and correct copy of this Ordinance and the City's Comprehensive Plan, as adopted and amended from time to time, shall be maintained by the City Clerk. The City Clerk shall make copies available to the public for a reasonable publication charge.

Section 5. **Effective Date:** This plan amendment shall be effective in accordance with Section 163.3187(5)(c), Florida Statutes.

INTRODUCED AND PASSED on First Reading at the regular meeting of the Avon Park City Council held on the _____ day of _____, 2022.

PASSED AND DULY ADOPTED, on second reading at the meeting of the Avon Park City Council duly assembled on the _____ day of _____, 2022.

CITY OF AVON PARK, FLORIDA

Garrett Anderson, Mayor

ATTEST:

Christian Hardman, City Clerk

Approved as to form:

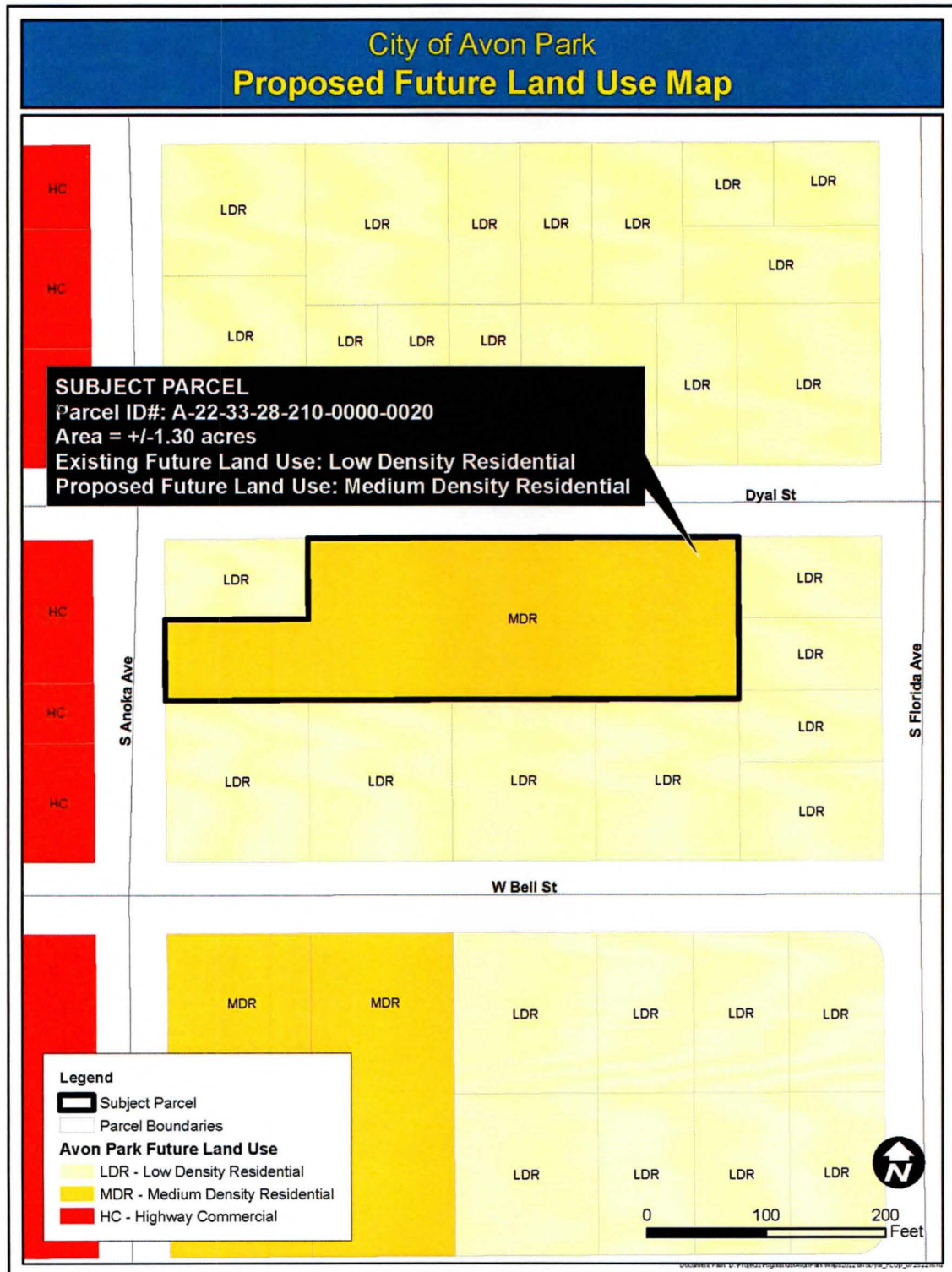
Gerald T. Buhr, City Attorney

Motion made by _____ **seconded by** _____.

The vote was ____ **for** ____ **against with** ____ **abstentions and** ____ **absent**

EXHIBIT "A"

Subject Properties



ORDINANCE NO. 15-2022

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF AVON PARK, FLORIDA, AMENDING ONE (1) PARCEL OF LAND CONSISTING OF +/-1.30 ACRES GENERALLY LOCATED EAST OF US HIGHWAY 27, NORTH OF WEST BELL STREET, AT THE SOUTHEAST CORNER OF THE INTERSECTION OF SOUTH ANOKA AVENUE AND DYAL STREET, ADDRESS BEING 915 DYAL STREET; FROM THE ZONING OF R-1A LOW DENSITY RESIDENTIAL TO R-2 MEDIUM DENSITY, SINGLE FAMILY ATTACHED AND DUPLEX; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Mr. Fitzroy Gardener ('applicant') has requested to change the zoning assignment of one (1) parcel of land consisting of +/-1.30 acres, from R-1A Low Density Residential to R-2 Medium Density, Single Family Attached and Duplex, on property generally located east of US Hwy 27, north of West Bell Street, at the southeast corner of the intersection of South Anoka Avenue and Dyal Street, further identified by Parcel Identification Number A-22-33-28-210-0000-0020, as shown in Exhibit "A" attached herein; and

WHEREAS, the City Council of Avon Park has adopted Ordinance No. 14-2022, a Future Land Use Map Amendment to the City's Comprehensive Plan, designating the subject parcel depicted in Exhibit "A" attached hereto and incorporated herein with a Future Land Use designation of "Medium Density Residential;" and

WHEREAS, the City Council of the City of Avon Park held a public hearing regarding the parcel shown in Exhibit "A", with due public notice having been provided, to obtain public comment, and considered all written and oral comments received during public hearings, including supporting documents; and

WHEREAS, in exercise of its authority, the City Council of the City of Avon Park has determined it necessary to amend the Official Zoning Map to change the City zoning designation assigned to the subject parcels.

NOW, THEREFORE BE IT ENACTED by the City Council of the City of Avon Park, Florida,

Section 1. Zoning Amendment: The official zoning map of the City of Avon Park is amended so as to assign the City zoning classification of R-2 Medium Density, Single Family Attached and Duplex to the subject parcel generally located east of US Hwy 27, north of West Bell Street, at the southeast corner of the intersection of South Anoka Avenue and Dyal Street, further identified by Parcel Identification Number A-22-33-28-210-0000-0020, consisting of +/-1.30 acres, as shown in Exhibit "A" which is attached and made a part hereof.

Section 2. Severability: If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

Section 3. All existing ordinances or parts of existing ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. **Certified Copy:** This Ordinance shall be codified in the Code of Ordinances of the City of Avon Park, Florida. A certified copy of this enacting ordinance shall be located in the Office of the City Clerk of Avon Park. The City Clerk shall also make copies available to the public for a reasonable publication charge.

Section 5. **Effective Date:** This Ordinance shall not take effect unless and until Ordinance No. 14-2022, adopting the companion Future Land Use Map Amendment to this rezoning, becomes final and non-appealable. Upon Ordinance No. 14-2022 taking effect, this Ordinance, No. 15-2022, shall take effect on the same date.

INTRODUCED AND PASSED on First Reading at the regular meeting of the Avon Park City Council held on the _____ day of _____, 2022.

PASSED AND DULY ADOPTED, on second reading at the meeting of the Avon Park City Council duly assembled on the _____ day of _____, 2022.

CITY OF AVON PARK, FLORIDA

Garrett Anderson, Mayor

ATTEST:

Christian Hardman, City Clerk

Approved as to form:

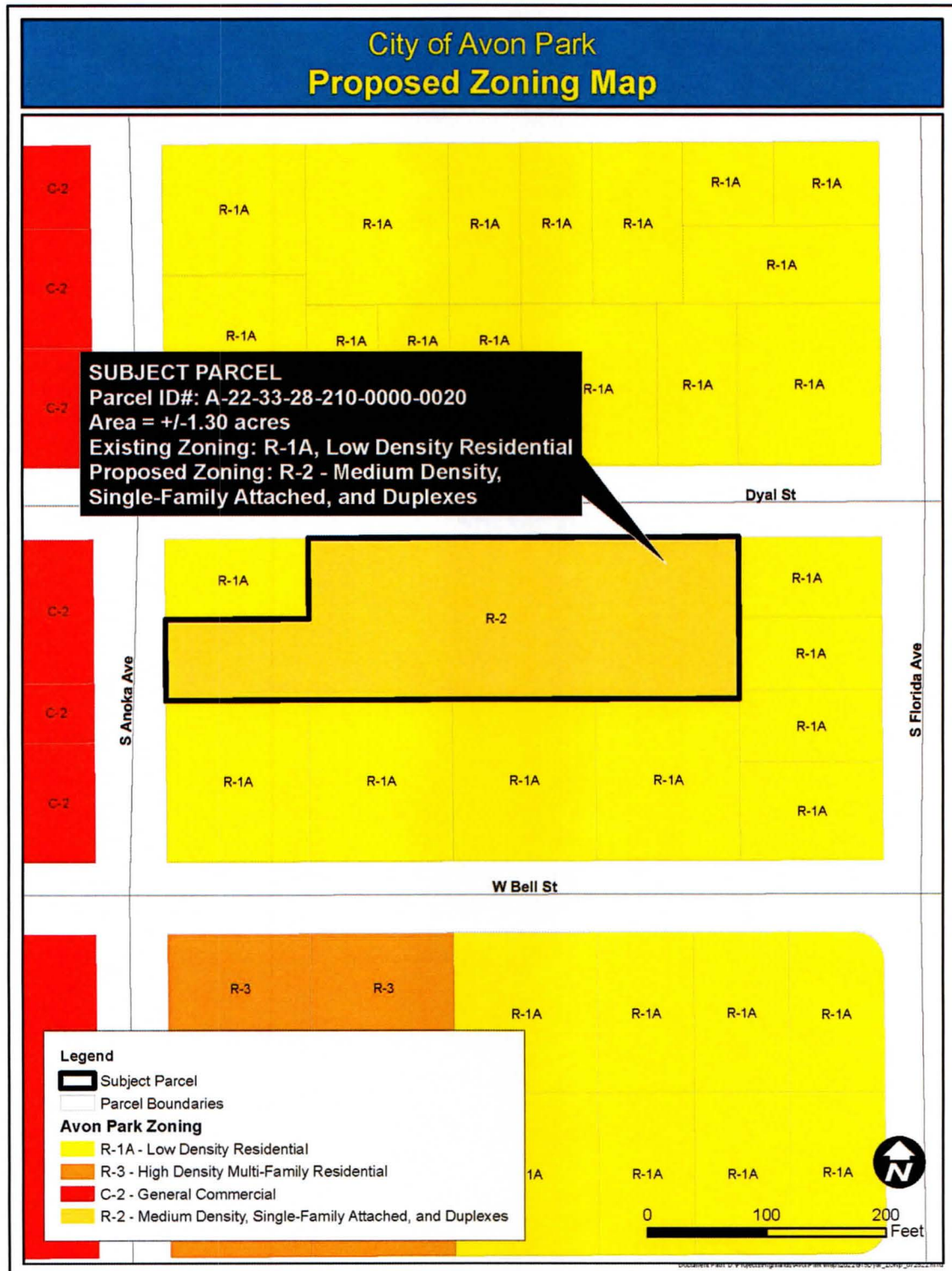
Gerald T. Buhr, City Attorney

Motion made by _____ **seconded by** _____.

The vote was ____ **for** ____ **against with** ____ **abstentions and** ____ **absent**

EXHIBIT "A"

Subject Properties





**CITY OF AVON PARK
FUTURE LAND USE MAP AMENDMENT & REZONING
OVERVIEW REPORT
September 12, 2022**

TO: City of Avon Park, City Council

FROM: Central Florida Regional Planning Council

SUBJECT: **ORDINANCE NO. 14-2022 - Future Land Use Map Amendment:**

An applicant-initiated request to amend the Future Land Use map of the City of Avon Park, Florida, amending one (1) parcel of land consisting of +/-1.30 acres, generally located east of US Hwy 27, north of West Bell Street, at the southeast corner of the intersection of South Anoka Avenue and Dyal Street, address being 915 Dyal Street, from the Future Land Use of Low Density Residential (LDR) to City Medium Density Residential (MDR).

ORDINANCE NO. 15-2022 - Rezoning:

An applicant-initiated request to amend the Official Zoning Map of the City of Avon Park, Florida, amending one (1) parcel of land consisting of +/-1.30 acres, generally located east of US Hwy 27, north of West Bell Street, at the southeast corner of the intersection of South Anoka Avenue and Dyal Street, address being 915 Dyal Street, from the zoning of R-1A Low Density Residential to R-2 Medium Density, Single Family Attached and Duplex.

AGENDA AND HEARING DATES:

August 9, 2022, 5:30 PM:	Planning and Zoning Board (Public Hearing)
August 29, 2022, 6:00 PM:	City Council (First Reading)
September 12, 2022, 6:00 PM:	City Council (Second Reading, Public Hearing)

ATTACHMENTS:

- Aerial Photo Map
- Existing Future Land Use Map
- Proposed Future Land Use Map
- Existing Zoning Map
- Proposed Zoning Map
- Recorded Plat (Plat Book 1, Page 40)
- Applications (Comprehensive Plan Amendment & Rezoning)

PLANNING AND ZONING BOARD ACTION:

On Tuesday, **August 9, 2022**, the City of Avon Park Planning & Zoning Board voted unanimously to forward the proposed Future Land Use Map Amendment and rezoning to the City Council with a **recommendation of approval**.

CITY COUNCIL ACTION (FIRST READING):

On Monday, **August 29, 2022**, the City of Avon Park City Council voted unanimously to **approve Ordinances 14-2022 and 15-2022 on First Reading**.

CITY COUNCIL MOTION OPTIONS:

Future Land Use Map Amendment Motion Options:

1. I move the City Council **approve Ordinance 14-2022**.
2. I move the City Council **approve Ordinance 14-2022, with changes**.
3. I move the City Council **deny Ordinance 14-2022**.

Rezoning Motion Options:

1. I move the City Council **approve Ordinance 15-2022**.
2. I move the City Council **approve Ordinance 15-2022, with changes**.
3. I move the City Council **deny Ordinance 15-2022 on First Reading**.

OVERVIEW:

Applicant/Owner	Fitzroy Gardner
Parcel IDs	A-22-33-28-210-0000-0020
Subject Area	+/- 1.30 acres
Existing Future Land Use	Low Density Residential
Proposed Future Land Use	Medium Density Residential
Existing Zoning	R-1A Low Density Residential
Proposed Zoning	R-2 Medium Density, Single Family Attached and Duplex
Previous Hearings	None

Fitzroy Gardner (applicant), is requesting a Future Land Use Map Amendment and rezoning to change the Future Land Use and zoning of +/- 1.30 acres from the Future Land Use of Low Density Residential (LDR) to Medium Density Residential (MDR) and the zoning of R-1A Low Density Residential to R-2 Medium Density, Single Family Attached and Duplex. The subject parcel is located east of US Hwy 27, north of West Bell Street, and at the southeast intersection of South Anoka Avenue and Dyal Street, address being, 915 Dyal Street, Avon Park. See attached Aerial Photo Map.

BACKGROUND & REASON FOR REQUEST:

The subject parcel is part of the Smith-McGinnis subdivision, which is recorded in Plat Book 1, Page 40, of Highlands County and includes Lots 2, 6, 8, 10, 12, 14, and 16. Each Lot is approximately 60 feet wide by 135 feet, for a total lot are of 8,100 square feet. See attached plat for reference.

The purpose of the request is to assign Future Land Use and Zoning designations that will accommodate the future development of duplexes.

The intent, by the applicant, is to re-establish the platted lots to construct duplexes across lots 6, 8, 10, 12, 14, and 16, resulting in a total of three (3) duplexes with six (6) dwelling units. This will allow each dwelling unit to be sold individually. Lot 2 is proposed to be developed with one (1) duplex (containing 2 dwelling units) on the single parcel. Dwelling units on this parcel could not be sold individually.

STANDARDS FOR EVALUATING FUTURE LAND USE AND ZONING CHANGES:

The City of Avon Park Planning & Zoning Board will provide recommendations, and the City Council will make a final motion to accept, reject, modify, return, or continue to seek additional information on all proposed Future Land Use and zoning changes. The review shall be considered and evaluated against the following standards:

- *Consistency with the Comprehensive Plan and Land Development Code.*
- *Land Use Compatibility.*
- *Public Facilities and Services Analysis.*

Consistency with the Comprehensive Plan and Land Development Code:

The request is to change the Future Land Use from Low Density Residential (LDR) to Medium Density Residential (MDR) and the zoning of R-1A Low Density Residential to R-2 Medium Density, Single Family Attached and Duplex. Descriptions for both the existing and proposed Future Land Use and zoning designations are provided as follows:

Existing – Future Land Use

City of Avon Park Comprehensive Plan, Future Land Use Element, Policy 1.4 – Low Density Residential: The Low Density Residential designation shall meet Avon Park's housing demands for this range of density, promote efficient use of infrastructure, protect existing single family neighborhoods and promote compatible land uses. Single family detached housing units are permissible to a maximum density of 6 units per gross acre. Public schools shall be a permitted use in this classification.

Proposed – Future Land Use

City of Avon Park Comprehensive Plan, Future Land Use Element, Policy 1.5 – Medium Density Residential: The Medium Density Residential designation shall meet Avon Park's housing demand for this range of density, promote efficient use of existing infrastructure and promote affordable housing. Multi-family housing units are permissible at a maximum density of 16 units per gross acre. Mobile home parks are permissible at a maximum density of 8 mobile homes per gross acre. Public schools shall be a permitted use in this classification.

Existing – Zoning

City of Avon Park Land Development Code, Section 2.04.02.02. – R-1A Low Density Residential: To establish locations suitable for low-density single-family residential development on lots smaller than in R-1AA up to four units an acre (4 du/ac); to designate those uses and activities that are appropriate for and compatible with such areas; and to establish standards and provisions necessary to ensure proper development in a low-density residential environment.

Proposed – Zoning

City of Avon Park Land Development Code, Section 2.04.02.04 – R-2 Medium Density, Single Family Attached and Duplex: To establish locations suitable for medium-density single family attached development such as duplexes, patio homes, townhouses, and condominiums, all with ground floor entrances, at a maximum of eight units in no more than four buildings per acre (8 du/ac).

Comprehensive Plan Consistency Analysis

The proposed Medium Density Residential Future Land Use is consistent with this area of the City and is compatible with the proposed R-2 zoning and development intent for the property. The proposed changes are also consistent with a number of goals, objectives, and policies of the City's Comprehensive Plan. See analysis provided below.

Future Land Use Element:

Objective 2:

All development shall be timed and staged in conjunction with available capacity of public facilities and services; availability of sufficient water supplies, both potable and non-potable, appropriate soil conditions and topography. Avon Park will continue to ensure that all land development orders are both concurrent and compatible with the regulations of Avon Park's Comprehensive Plan.

Policy 2.1: Development orders or permits shall be issued only when public facilities and services are available concurrent with the impacts of development at or above the established level of service. [9J-5.006(3)(c)31

Policy 2.2: Development orders or permits shall be issued only when sufficient potable and non-potable water supplies and supply facilities are available concurrent with the impacts of development.

The City has available potable water capacity to serve the proposed development pending approval of the proposed Future land Use amendment and rezoning.

Housing Element:

Objective 1: Provision of Adequate and Affordable Housing

The City will assist the private sector to provide sufficient and affordable housing for the diversified needs of the present and future population. Avon Park shall provide measurable policies that increase its efficiency in meeting the goals of the 9J-5.010 Housing Element resulting in improvements to the housing delivery process.

Policy 1.4: The City shall encourage, through its Land Development Regulations, a mix of housing types, densities, and "non-tax exempt" affordable housing.

The proposed development aides to establish a mix of residential lot sizes and housing types to support affordable housing.

Infrastructure Element:

Objective 1: Level of Service

Avon Park shall provide sanitary sewer, potable water and drainage facilities that comply with the level of service and capacity standards established in this element. Avon Park shall ensure that all development orders meet concurrency, public facility, and other utility requirements.

Review of the proposed Future Land Use and zoning changes by the City's development review committee reflects that the City has available potable water capacity to serve future development which will operate within the City's established level of service standards.

Land Use Compatibility

The subject parcel is surrounded by a mix of Low Density Residential Future Land Use on three sides and Commercial Future Land Use to the west. The adjacent parcels consist of single-family homes and a small multi-family development. A mix of Commercial, Low Density and Medium Density Future Land Uses are in close proximity.

The *Land Use Matrix* below outlines the existing and proposed Future Land Use and zoning of the subject parcels, the existing Future Land Use and zoning of adjacent properties, and the existing land use of the subject parcels and adjacent properties. Proposed Future Land Use and Zoning Maps are also provided for reference.

Land Use Matrix

Northwest	North	Northeast
Future Land Use: LDR Zoning: R-1A Existing Land Use: Multi-Family <10 Units	Future Land Use: LDR Zoning: R-1A Existing Land Use: Single-Family Residential	Future Land Use: LDR Zoning: R-1A Existing Land Use: Single-Family Residential
West	Subject Parcels	East
Future Land Use: HC Zoning: C-2 Existing Land Use: Single-Family Residential, Vacant	Future Land Use: <u>Existing:</u> LDR <u>Proposed:</u> MDR Zoning: <u>Existing:</u> R-1A <u>Proposed:</u> R-2 Existing Land Use: Vacant	Future Land Use: LDR Zoning: R-1A Existing Land Use: Single-Family Residential
Southwest	South	Southeast
Future Land Use: HC Zoning: C-2 Existing Land Use: Single-Family Residential	Future Land Use: LDR Zoning: R-1A Existing Land Use: Single-Family Residence	Future Land Use: LDR Zoning: R-1A Existing Land Use: Single-Family Residential

LDR = Low Density Residential, MDR = Medium Density Residential, HC = Highway Commercial, R-1A = Low Density Residential, R-2 = Medium Density, Single Family Attached and Duplex

The current Low Density Residential Future Land Use permits up to six (6) dwelling units per acre. The proposed Medium Density Residential Future Land Use permits up to sixteen (16) dwelling units per acre. At +/- 1.30 acres, the Low Density Residential Future Land Use permits a maximum density of 7 dwelling units. Under the proposed Medium Density Residential Future Land Use, the maximum density would be 20 dwelling units. This is an increase of 13 dwelling units. See table below.

	Future Land Use Designation	
	Low Density Residential	Medium Density Residential
Permitted Density	6 DU / acre	16 DUs / acre
Subject Parcel Acreage	+/- 1.30 acres	+/- 1.30 acres
Maximum Density	7 dwelling units (1.30 x 6)	20 dwelling units (1.30 x 16)
Density change	+13 dwelling units	

Although the proposed Future Land Use change would allow a maximum density of 20 dwelling units, the maximum density is further regulated through the zoning of the property. The current R-1A Low Density Residential zoning district permits up to four (4) dwelling units per acre. The proposed R-2 Medium Density, Single Family Attached and Duplex District permits up to eight (8) dwelling units per acre. At +/- 1.30 acres, the maximum density, by way of the proposed zoning, would be 10 dwelling units. Based on the proposed zoning of the property, there will be an increase in permitted density of five dwelling units. See table below:

	Zoning Districts	
	R-1A	R-2
Permitted Density	4 DUs / acre	8 DUs / acre
Subject Parcel Acreage	+/- 1.30 acres	+/- 1.30 acres
Maximum Density	5 dwelling units (1.30 x 4)	10 dwelling units (1.30 x 8)
Density change	+5 dwelling units	

The proposed request assigns Future Land Use and zoning assignments to a previously approved residential subdivision. Assigning the proposed Future Land Use and zoning will allow for the development of duplexes. The development of duplexes will be compatible with the surrounding area in that it will serve as a transitional area between commercial and single-family residential uses. Additionally, the residential nature associated with the proposed City Future Land Use in conjunction with the proposed City zoning, is found to be compatible with the character of the surrounding area.

Public Facilities and Services Analysis:

The following is a summary analysis of the potential impacts on existing public facilities and services.

Potable Water

City water connection is in proximity and there is available capacity in the City's system to serve future development of the subject parcel. Connections will need to be coordinated with the City at time of development.

Sanitary Sewer

City wastewater connection is in proximity and there is available capacity in the City's system to serve future development of the subject parcel. Connections will need to be coordinated with the City at time of development.

Solid Waste:

Future development will be served by a city-approved refuse collector.

Transportation/Traffic:

The subject parcel is located at the southeast corner of the intersection of South Anoka Avenue and Dyal Street, both local roadways within the City of Avon Park. Considering the minimal increase in potential development density on the site, no adverse impacts are anticipated on the surrounding roadway network. Additional transportation impacts will be reviewed at time of development.

Public Schools:

The Highlands County School Board (HCSB) has been notified of the Future Land Use and zoning proposal. Considering the minimal increase in potential development density on the site, no adverse impacts are anticipated on Highlands County schools. Concurrency review will be required at time of development.

Recreation/Open Space:

Based on the City's level of service standard for recreation and open space facilities, which requires 3 acres/1,000 persons and the City's current operating standard of 6.54 acres/1,000 persons, no negative impacts are anticipated with the proposed Future Land Use and zoning change.

City of Avon Park Aerial Photo Map

SUBJECT PARCEL
Parcel ID#: A-22-33-28-210-0000-0020
Area = +/-1.30 acres



Dyal St

S Anoka Ave

S Florida Ave

W Bell St

Legend

-  Subject Parcel
-  Parcel Boundaries



NOT TO SCALE

0 100 200 Feet

City of Avon Park
Existing Future Land Use Map

SUBJECT PARCEL
Parcel ID#: A-22-33-28-210-0000-0020
Area = +/-1.30 acres
Existing Future Land Use: Low Density Residential



Dyal St

S Anoka Ave




S Florida Ave

W Bell St

Legend

-  Subject Parcel
 Parcel Boundaries

Avon Park Future Land Use

-  LDR - Low Density Residential
 MDR - Medium Density Residential
 HC - Highway Commercial



City of Avon Park Proposed Future Land Use Map

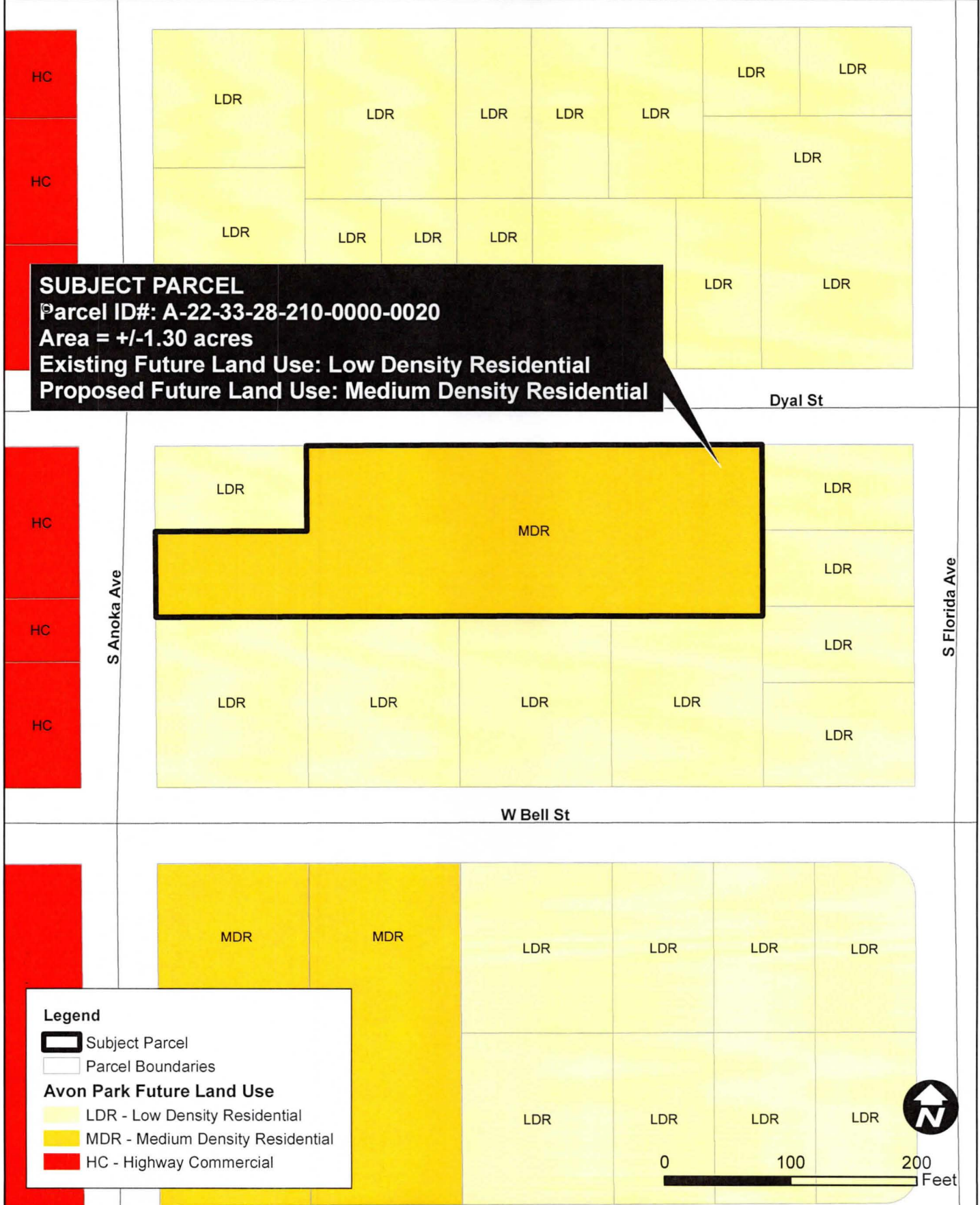
SUBJECT PARCEL

Parcel ID#: A-22-33-28-210-0000-0020

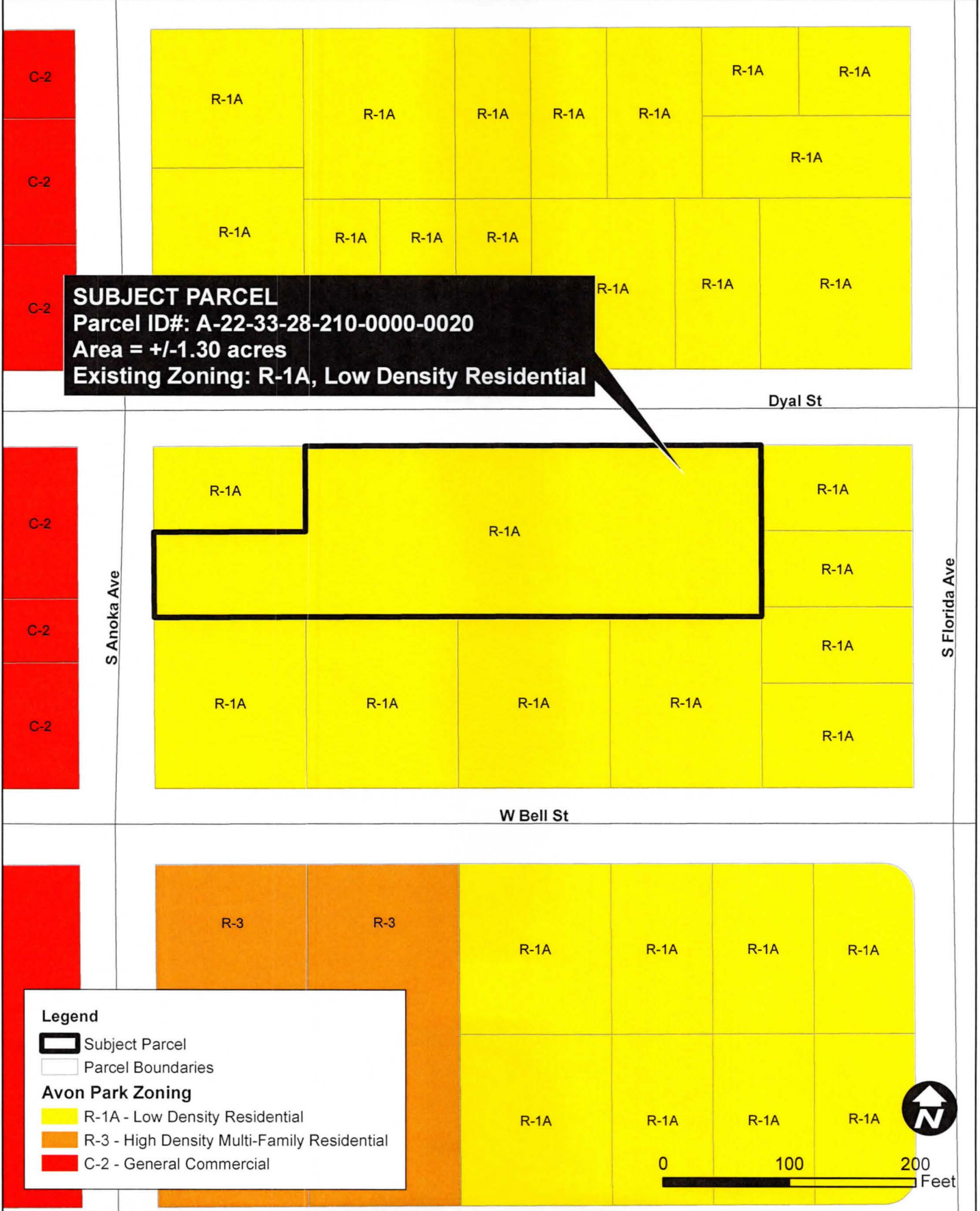
Area = +/-1.30 acres

Existing Future Land Use: Low Density Residential

Proposed Future Land Use: Medium Density Residential





City of Avon Park Existing Zoning Map



City of Avon Park Proposed Zoning Map

SUBJECT PARCEL
Parcel ID#: A-22-33-28-210-0000-0020
Area = +/-1.30 acres
Existing Zoning: R-1A, Low Density Residential
Proposed Zoning: R-2 - Medium Density, Single-Family Attached, and Duplexes

Legend

-  Subject Parcel
-  Parcel Boundaries

Avon Park Zoning

-  R-1A - Low Density Residential
-  R-3 - High Density Multi-Family Residential
-  C-2 - General Commercial
-  R-2 - Medium Density, Single-Family Attached, and Duplexes



0 100 200 Feet

DRAWING NUMBER
 100-1-10-40
 SHEET 1

DRAWING NUMBER
 100-1-10-40
 SHEET 1

DRAWING NUMBER
 100-1-10-40
 SHEET 1

DRAWING NUMBER
 100-1-10-40
 SHEET 1

9197

PARDEE SUBDIVISION

OF THE EAST 320 FT OF LOT 1 BLOCK 4 SEC 33S-528E
 SCALE 50' = 1" 1/2

I, J. H. Pardee, do hereby certify that I have
 caused the above described subdivision to be
 made and that the plat is a true and correct
 copy of the original and is in accordance with
 the provisions of the Act of the 30th day of Feb. 1915
 of the State of Florida.

49	35	1
50	34	2
51	33	3
52	32	4
53	31	5
54	30	6
55	29	7
56	28	8
57	27	9
58	26	10
59	25	11
60	24	12
61	23	13
62	22	14
63	21	15
64	20	16
65	19	17
66	18	18
67	17	19
68	16	20
69	15	21
70	14	22
71	13	23
72	12	24
73	11	25
74	10	26
75	9	27
76	8	28
77	7	29
78	6	30
79	5	31
80	4	32
81	3	33
82	2	34
83	1	35

FILED IN THE OFFICE AND RECORDED
 IN PLAT BOOK 1 PAGE 40
 J. H. Pardee

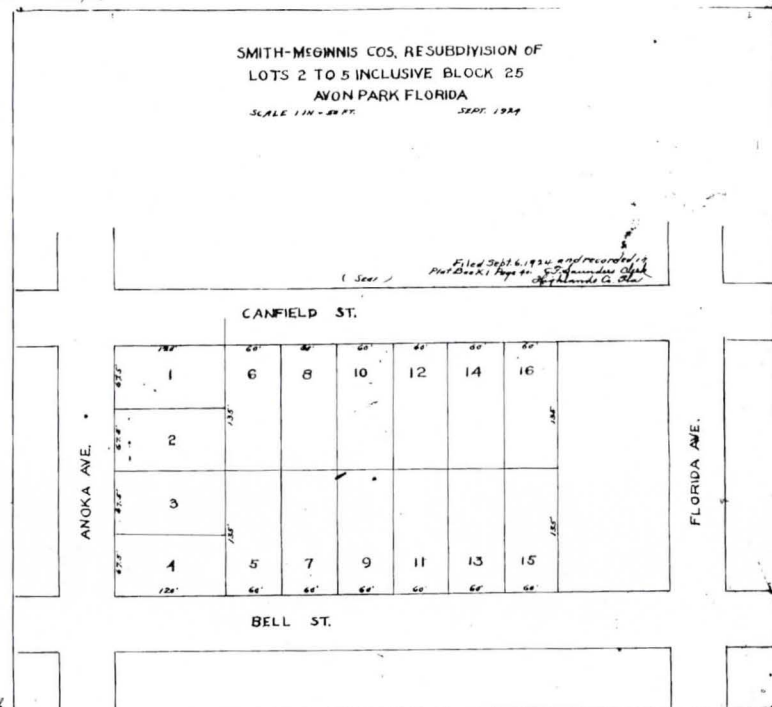
WE HEREBY CERTIFY that this plat is a true copy of the original
 and that the same is in accordance with the Act of the 30th day of Feb. 1915
 of the State of Florida.

REGISTERED PROFESSIONAL
 J. H. Pardee
 Registered Professional Engineer No. 126
 State of Florida

40 629

SMITH-MEGINNIS COS, RESUBDIVISION OF LOTS 2 TO 5 INCLUSIVE BLOCK 25 AVON PARK FLORIDA

SCALE 1" = 20' PT. SEPT. 1929

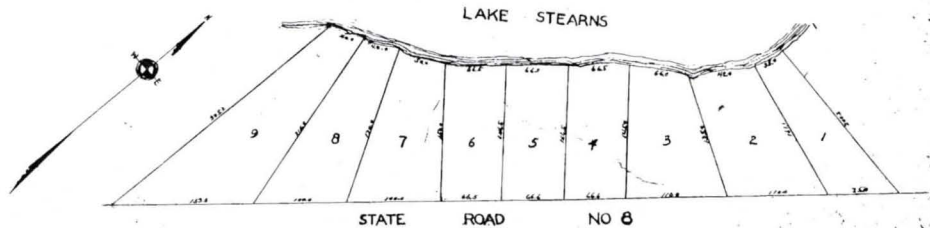


LAKE SIDE PARK

A SUBDIVISION LYING IN THE SE 1/4 OF THE S.W. 1/4
 OF SECTION 30 T. 9. 30. RANGE 30 EAST.
 SCALE 1" = 100' PT.

J. H. MANNING C.E. SPRING FLA.

FILED MARCH 7, 1925 AND
 RECORDED IN PLAT BOOK 1 PAGE 40
 (J.H.M.)



STATE ROAD NO 8

Book 1, Page 40

BK1, 13 40



COMPREHENSIVE PLAN AMENDMENT APPLICATION

City of Avon Park Florida
110 E. Main Street
Avon Park, FL 33825
(863) 452-4400

Date Stamp

Fees: _____

R# _____

City Website: www.avonpark.cc

File No. : **22** - _____ CP

The Avon Park Comprehensive Plan is a long-range regulatory document that helps determine community goals and aspirations for managing growth in terms of land use, utilities, transportation, recreation, and housing. The Future Land Use Map (FLUM) is a regulatory map included as part of the plan. The plan and FLUM delineate the allowable categories of land uses, including what uses, intensity or density may be established on land within the city.

APPLICANT'S INFORMATION

(Agent or Contractor)

Name: _____

Organization: FITZROY GARDNER

Address: 501 West Pleasant St

City: Avon Park

State: Florida Zip Code: 33825

Telephone No.: (863) 443-0644

Email: coxhassurvicosa@yahoo.com

PROPERTY OWNER'S INFORMATION

(Leave Blank if Same as Applicant)

Name: _____

Organization: _____

Address: _____

City: _____

State: _____ Zip Code: _____

Telephone No.: () _____

Email: _____

I. Type of Plan Amendment Proposed:

- ☒ Small Scale. Any change in the Future Land Use Map that involves land areas of 10 acres or less.
- ☐ Large Scale. Any change in the Future Land Use Map that involves land areas greater than 10 acres.
- ☐ Text Amendment. Any change in the text within the Comprehensive Plan.

II. Property Information

Parcel Address (if assigned): 915 Dyal St Avon Park FL 33825

Parcel Identification Number: A-22-33-28-210-0000-0020

Legal Description Smith McGinnis Sub Lot
Subdivision, Block and Lot Nos.: 2x6x8x10x12x14x16

Property Size (in acres): 56,760 SF

III. Regulatory and Land Use Information

Adopted Future Land Use Map Designation: Low Density Residential

Proposed Future Land Use Map Designation: Medium Density Residential

For Large Scale Text Amendments, please include proposed text changes in legislative format (strike through-underlined) and indicate chapter and policy numbers.

IV. Development Activity Proposed

☐ Residential

☒ Commercial

☐ Office/Professional

☐ Industrial

Other _____

Expected Total Residential Units: 8

Residential Density: Dwellings Units / Per Acre = _____

Expected Total Square Footage of All Non-Residential Structures (retail, office, warehouse): _____

V. Transportation Access Information

Roadways that serve the property: _____

Identify proposed curb cuts (connection of new roads, driveways, turn-lanes) that are anticipated to the following roadways:

VI. Projected Impact to Public Facilities and Services

In an effort to better anticipate utility service usage and project level of service impacts, please indicate expected service volumes and infrastructure needs based upon any predevelopment plans or expectations:

Potable Water: _____

Sanitary Sewer: _____

Reclaimed Irrigation or Grey Water: _____

Public School and Enrollment Projections: _____

Known Wellhead or Environmental Protection Zones: _____

Any Special Needs Population: _____



REZONING APPLICATION (ZONING MAP AMENDMENT)

Date Stamp

City of Avon Park Florida
110 E. Main Street
Avon Park, FL 33825
(863) 452-4400

City Website: www.avonpark.cc

R# _____

The purpose of zoning is to locate particular land uses where they are most appropriate, considering public utilities, road access, and the established development pattern. The Zoning Map regulates allowable land uses within the City through the creation of land use districts or zones, and then assigns individual parcels to a particular zoning district. A rezoning is a change in the zoning district designation for a property. The rezoning process exists to allow property owners to change the zoning district designation of their property to another zoning classification or land development regulations which may impact property use standards.

APPLICANT'S INFORMATION

(Agent or Contractor)

Name: FITZROY GARDNER
Organization: _____
Address: 501 West Pleasant St
City: Avon Park
State: Florida Zip Code: 33825
Telephone No.: 863 1443-0644
Email: kathcservices@yahoo.com

PROPERTY OWNER'S INFORMATION

(Leave Blank if Same as Applicant)

Name: _____
Organization: _____
Address: _____
City: _____
State: _____ Zip Code: _____
Telephone No.: () _____
Email: _____

I. Property Information

Parcel Address (if assigned): 915 Dyal Street Avon Park FL 33825
Parcel Identification Number: 4-22-33-28-210-0000-0020
Subdivision, Block and Lot Nos.: Legal Description Smith McGinnis Sub-1A-2 N 6 N 8 N
Property Size (in acres): Approx 56,260 SF. P.B-1 PG 40
10x12 N14
16
Existing land use of subject property: Vocal

II. Regulatory and Land Use Information of Subject Property

Future Land Use Map Designation: Proposed Medium Density Residential

Adopted Zoning Map Designation: R I A.

Proposed Zoning Map Designation: R-2

Is the subject property adjacent to or nearby other similar zoned districts to the district being sought?

☒ No ☐ Yes, please list zoning districts: _____

III. Proposed Development Activity

☐ Residential ☒ Commercial ☐ Office/Professional ☐ Other _____

Expected Total Residential Units: 8 Residential Density: Dwellings Units / Per Acre = _____

Expected Total Square Footage of All Non-Residential (retail, office, warehouse) Structures: N/A

IV. Transportation Access Information

Identify primary roadways that serve the subject property: N/A

Has a recent transportation and parking demand study been performed: ☒ No ☐ Yes

How many existing parking spaces are dedicated to the project site: 2-Per unit

Identify roadways that are anticipated to be impacted through project site plan improvements:

Driveways: N/A Turn lanes: _____

Intersection Improvements: _____

V. Projected Impacts to Public Facilities and Services

In an effort to better anticipate utility service usage and project level of service impacts, please indicate expected service volumes and infrastructure needs based upon any predevelopment plans or expectations:

Potable Water, change in ERUs: _____

Sanitary Sewer, change in ERUs: _____

Public School and Enrollment Projections: _____

Known Environmental or Wellhead Protection Zones: _____

Agenda Item Summary

Date of Action: September 12, 2022

Subject: Public Hearing: Resolution No. 2022-20,
Establishing the Rate for the Fire Rescue Assessment Rate
for the Fiscal year Commencing October 1, 2022.

Item No.: D-8

Placed on Agenda by: Fire Chief, Andy Marcy

Staff Review: Yes

Attorney Review: Chris Rowe, Special Council to the City

Recommended Motion(s): Decision on Establishing the
Rate for the Fire Rescue Assessment Rate for the
FY2022/2023 and Approval of the Same.

Documentation:

- Resolution No. 2022-20

Background:

RESOLUTION NO. 2022-20

A RESOLUTION OF AVON PARK, FLORIDA, RELATING TO THE PROVISION OF FIRE RESCUE SERVICES, FACILITIES AND PROGRAMS IN THE CITY; ESTABLISHING THE RATE OF ASSESSMENT FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2022; IMPOSING FIRE RESCUE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE CITY; APPROVING THE ASSESSMENT ROLL AND DIRECTING DELIVERY THEREOF TO THE TAX COLLECTOR; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of Avon Park, Florida, enacted Ordinance No. 01-00 (as codified in Chapter 38, Article III of the City Code of Ordinances, the "Assessment Ordinance"), which authorizes the imposition of Fire Rescue Assessments to fund fire rescue services, facilities, and programs against Assessed Property located within the City of Avon Park (the "City"); and

WHEREAS, the reimposition of a Fire Rescue Assessment for fire rescue services, facilities, and programs each Fiscal Year is an equitable and efficient method of allocating and apportioning the annual Fire Rescue Assessed Cost among parcels of Assessed Property; and

WHEREAS, the City Council desires to continue its Fire Rescue Assessment program within the City using the tax bill collection method for the Fiscal Year beginning on October 1, 2022 ("Fiscal Year 2022-23"); and

WHEREAS, the City Council adopted Resolution No. 2022-18 on August 8, 2022 (the "Preliminary Rate Resolution"), which, among other things, described the method of apportioning the Fire Rescue Assessed Cost among real property specially benefitted by fire rescue services, facilities, and programs, estimated the assessment rates for Fiscal Year 2022-23, and directed preparation of the Assessment Roll and provision of notices required by the Assessment Ordinance; and

WHEREAS, pursuant to the provisions of the Assessment Ordinance, the City is required to confirm or repeal the Preliminary Rate Resolution, with such amendments as the City Council deems appropriate, after hearing comments and objections of all interested parties; and

WHEREAS, the Assessment Roll for the Fire Rescue Assessments has heretofore been made available for inspection by the public; and

WHEREAS, certain Tax Parcels which were not previously subject to the Fire Rescue Assessments are being added to the Assessment Roll for Fiscal Year 2022-23; and

WHEREAS, such parcels, a list of which is on file with the City Clerk and incorporated herein by reference, receive the several special benefits described in the Initial Assessment Resolution from the City's provision of fire protection services, facilities and programs (the "Newly Assessed Parcels"); and

WHEREAS, as required by Section 38-88 of the Assessment Ordinance, the City Council conducted a public hearing on September 12, 2022 in order to receive comments from the public and owners of the Newly Assessed Parcels prior to adoption of this Resolution and approval of the Assessment Roll for Fiscal Year 2022-23; and

WHEREAS, the City published notice of such public hearing, and mailed notice of such public hearing to the owners of the New Assessed Parcels, in accordance with Section 38-88 of the Assessment Ordinance, and the publisher's affidavit and an archive of the mailed notices are on file in the office of the City Clerk; and

WHEREAS, during the public hearing held on September 12, 2022, any comments or objections of interested persons were heard and considered.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AVON PARK, FLORIDA:

SECTION 1. AUTHORITY. This Resolution is adopted pursuant to the Assessment Ordinance, City Resolution No. 15-12 (and together with City Resolution No. 15-20, the "Initial Assessment Resolution"), sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

SECTION 2. DEFINITIONS. This Resolution constitutes the Annual Rate Resolution for Fiscal Year 2022-23. All capitalized terms in this Resolution shall have the meanings defined in the Assessment Ordinance, the Initial Assessment Resolution and the Preliminary Rate Resolution.

SECTION 3. REIMPOSITION OF FIRE RESCUE ASSESSMENTS.

(A) The parcels of Assessed Property described in the Assessment Roll as updated pursuant to the Preliminary Rate Resolution, which is hereby approved, are hereby found to be specially benefited by the provision of the fire rescue services, facilities, and programs described in the Preliminary Rate Resolution in the amount of the Fire Rescue Assessment set forth in the updated Assessment Roll, a copy of which was present or available for inspection at the above referenced public hearing and is incorporated herein by reference.

(B) It is hereby ascertained, determined and declared that each parcel of Assessed Property within the City will be benefited by the City's provision of fire rescue services, facilities, and programs in an amount not less than the Fire Rescue Assessment for such parcel, computed in the manner set forth in the Preliminary Rate Resolution. Adoption of this Annual Rate Resolution constitutes a legislative determination that all parcels assessed derive special benefits, as set forth in the Assessment Ordinance, the Initial Assessment Resolution and the Preliminary Rate Resolution, from the fire rescue services, facilities, and programs to be provided and a legislative determination that the Fire Rescue Assessments are fairly and reasonably apportioned among the properties that receive the special benefits as set forth in the Initial Assessment Resolution and the Preliminary Rate Resolution.

(C) The method for computing Fire Rescue Assessments described in the Initial Assessment Resolution and the Preliminary Rate Resolution is hereby approved.

(D) For Fiscal Year 2022-23, the Fire Rescue Assessed Cost to be assessed is approximately \$729,000. The rates for the Fire Rescue Assessments to be assessed and apportioned among benefited parcels to generate such Fire Rescue Assessed Cost are as follows:

Property Use Category	Assessment Unit	Assessment Rate for FY 2022-23
Residential	Dwelling Unit	\$140.00 per dwelling unit
Commercial	Square Foot	\$0.074 per square foot
Industrial/Warehouse	Square Foot	\$0.011 per square foot
Government/Institutional	Square Foot	\$0.028 per square foot

(E) Such rates were used in preparation of the Assessment Roll for Fiscal Year 2022-23 and are hereby approved. The maximum rates of assessment set forth in the Initial Assessment Resolution are hereby confirmed and may be used for preparation of the Assessment Roll for any subsequent Fiscal Year.

(F) The Fire Rescue Assessments for fire rescue services, facilities, and programs in the amounts set forth in the Assessment Roll, as herein approved, are hereby levied and imposed on all parcels of Assessed Property described in the Assessment Roll.

(G) Any shortfall in the expected Fire Rescue Assessment proceeds due to any reduction or exemption from payment of the Fire Rescue Assessments required by law or authorized by the City Council shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the Fire Rescue Assessments. In the event a court of competent jurisdiction determines any exemption or reduction by the City Council is improper or otherwise adversely affects the validity of the Fire Rescue Assessment imposed for this Fiscal Year, the sole and exclusive remedy shall be the imposition of a Fire Rescue Assessment upon each affected Tax Parcel in the amount of the Fire Rescue Assessment that would have been otherwise imposed save for such reduction or exemption afforded to such Tax Parcel by the City Council.

(H) As authorized in the Assessment Ordinance, interim Fire Rescue Assessments are also levied and imposed against all property for which a Certificate of Occupancy is issued after adoption of this Annual Rate Resolution based upon the rate of assessment approved herein.

(I) Fire Rescue Assessments shall constitute a lien upon the Assessed Property so assessed equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid.

(J) The Assessment Roll for Fiscal Year 2022-23 as herein approved, together with the correction of any errors or omissions, shall be delivered to the Tax Collector for collection using the tax bill collection method in the manner prescribed by the Assessment Ordinance. The Assessment Roll, as delivered to the Tax Collector, shall be accompanied by a Certificate to Non-Ad Valorem Assessment Roll in substantially the form attached hereto as Appendix A. The City Finance Director is hereby authorized and directed to sign and deliver such certificate on behalf of the City.

SECTION 4. EFFECT OF ADOPTION OF RESOLUTION. The adoption of this Annual Rate Resolution shall be the final adjudication of the issues presented (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of assessment, the Assessment Roll and the levy and lien of the Fire Rescue Assessments), as provided by Section 38-88(g) of the Assessment Ordinance.

SECTION 5. SEVERABILITY. If any clause, section or other part of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Resolution.

SECTION 6. EFFECTIVE DATE. This Annual Rate Resolution shall take effect immediately upon its passage and adoption.

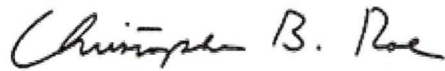
PASSED, ADOPTED AND APPROVED THIS 12TH DAY OF SEPTEMBER, 2022.

Garrett Anderson, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM
AND CORRECTNESS:



Special Counsel to the City

APPENDIX A

**FORM OF CERTIFICATE TO
NON-AD VALOREM ASSESSMENT ROLL**

I HEREBY CERTIFY that, I am an authorized agent of the City of Avon Park, Florida (the "City") and as such I have satisfied myself that all property included or includable on the non-ad valorem assessment roll for fire rescue services (the "Non-Ad Valorem Assessment Roll") for the City is properly assessed so far as I have been able to ascertain; and that all required extensions on the above described roll to show the non-ad valorem assessments attributable to the property listed therein have been made pursuant to law.

I FURTHER CERTIFY that, in accordance with the Uniform Assessment Collection Act, this certificate and the herein described Non-Ad Valorem Assessment Roll will be delivered to the Highlands County Tax Collector by September 15, 2022.

IN WITNESS WHEREOF, I have subscribed this certificate and directed the same to be delivered to the Highlands County Tax Collector and made part of the above described Non-Ad Valorem Assessment Roll this ____ day of _____, 2022.

AVON PARK, FLORIDA

By: _____
Finance Director

[to be delivered to Tax Collector on or prior to September 15, 2022]

Agenda Item Summary

Date of Action: September 12, 2022

Subject: Discussion on FY 22/23 Airport Budget and
Overview of Overall FY22/23 Draft Budget

Item No.: D-9

Placed on Agenda by: Finance Director, Melody
Sauerhafer

Staff Review: Yes

Attorney Review:

Recommended Motion(s):

Documentation:

- PowerPoint

Background:



AVON PARK
The City of Charm

**2022-2023
Airport Budget
and Budget Summary
September 12, 2022**

Prepared by: Melody Sauerhafer, Finance Director

2022-2023 Airport Budget

Type of Revenue	Amount Budgeted
Rents & Royalties	255,000
Intergovernmental	3,105,740
Fuel Sales	205,000
Other Miscellaneous	51,000
Total Airport Fund Revenues	3,616,740

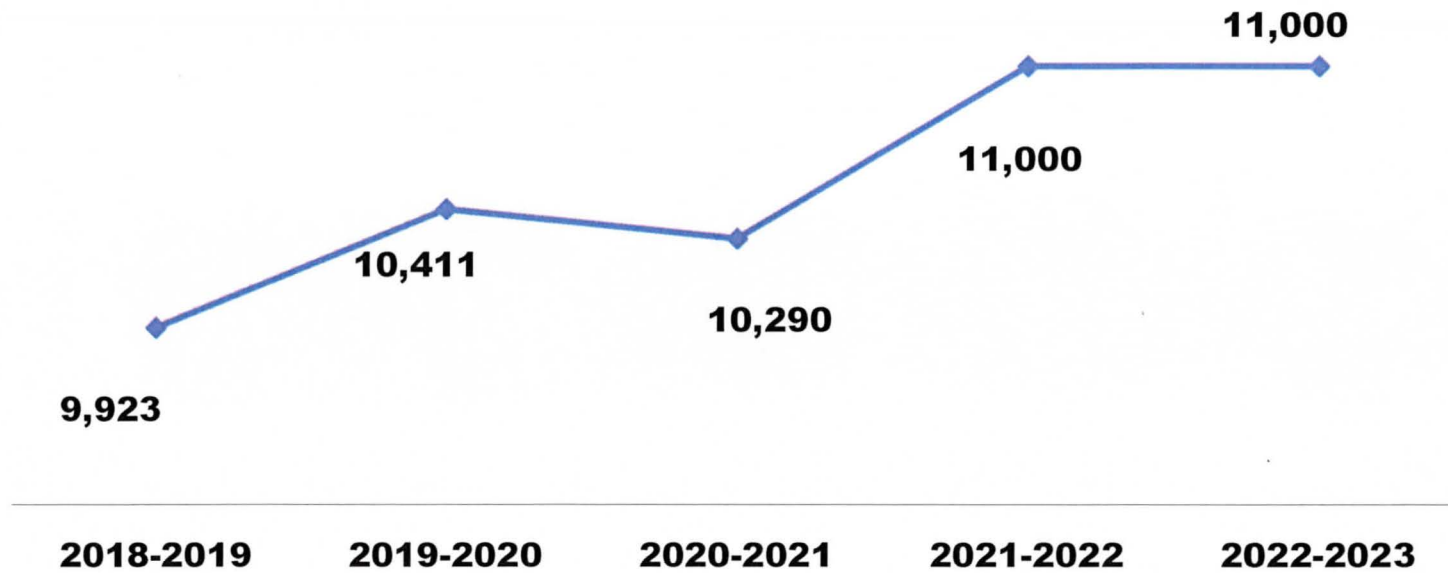
2022-2023 Airport Budget

Rents & Royalties

Type of Revenue	Amount Budgeted
Maintenance Fees	11,000
Tie Down Apron Fees	1,000
Hanger Rental	173,000
Industrial Building	80,000
Ramp Rentals	1,000
Total Airport Fund Revenues	255,000

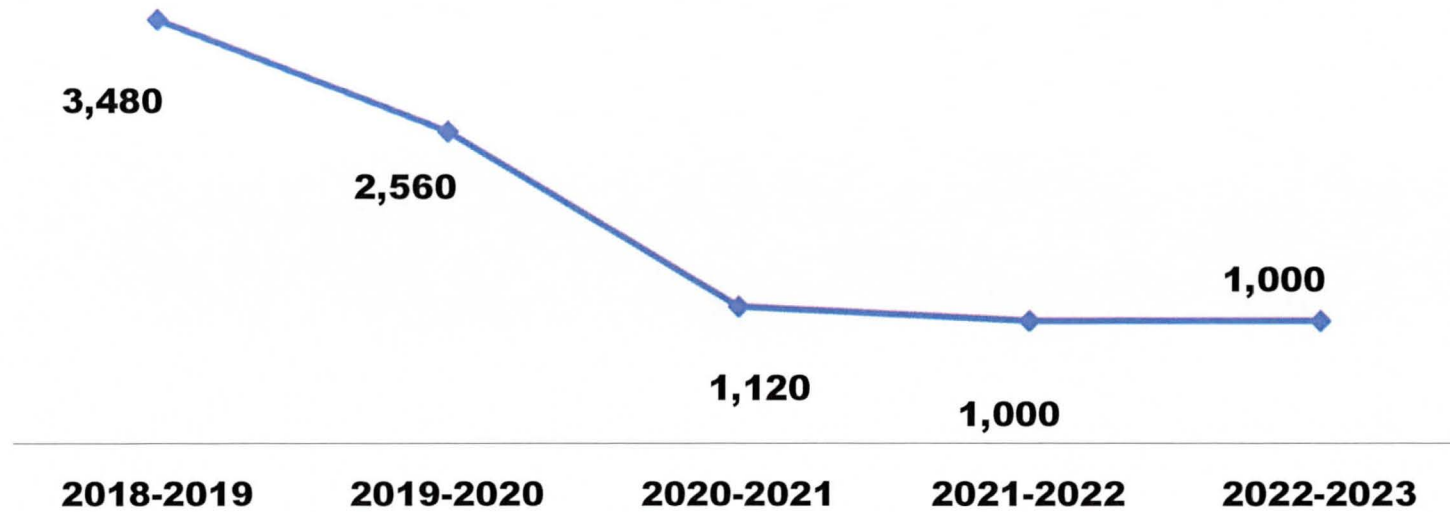
2022-2023 Airport Budget

Maintenance Fees



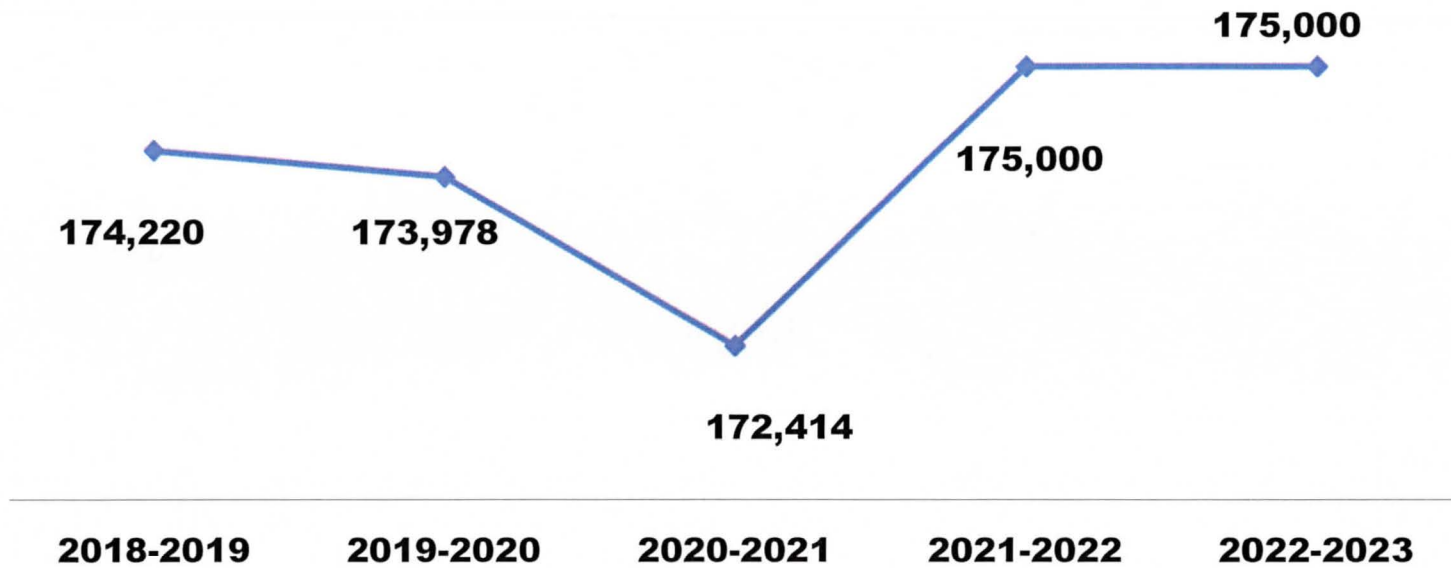
2022-2023 Airport Budget

Tie Down Apron Fees



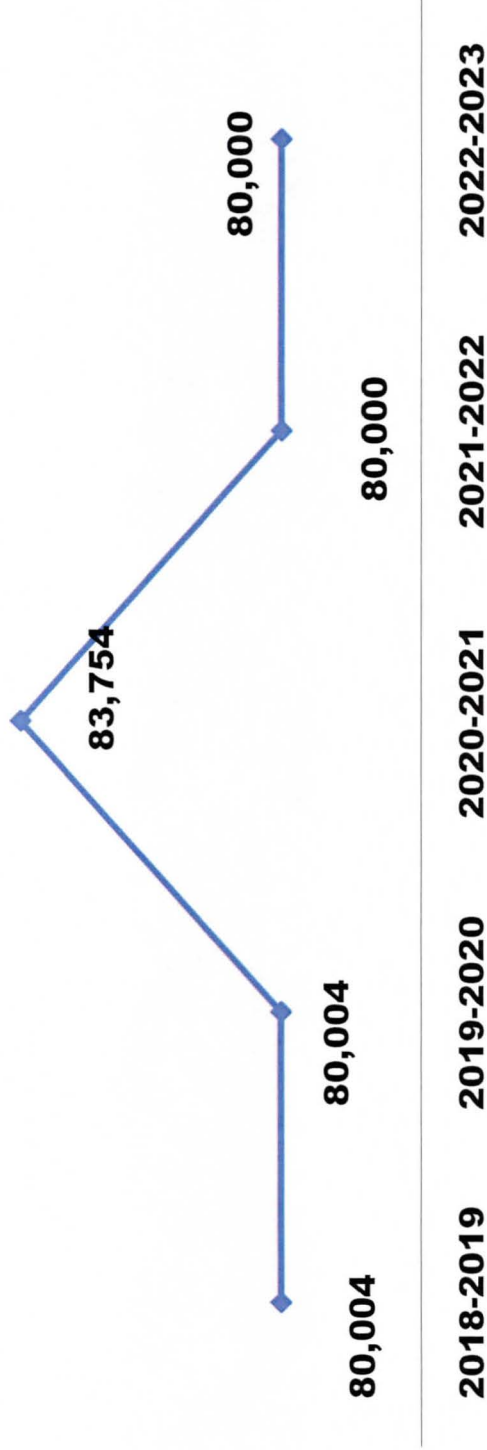
2022-2023 Airport Budget

Hanger Rental



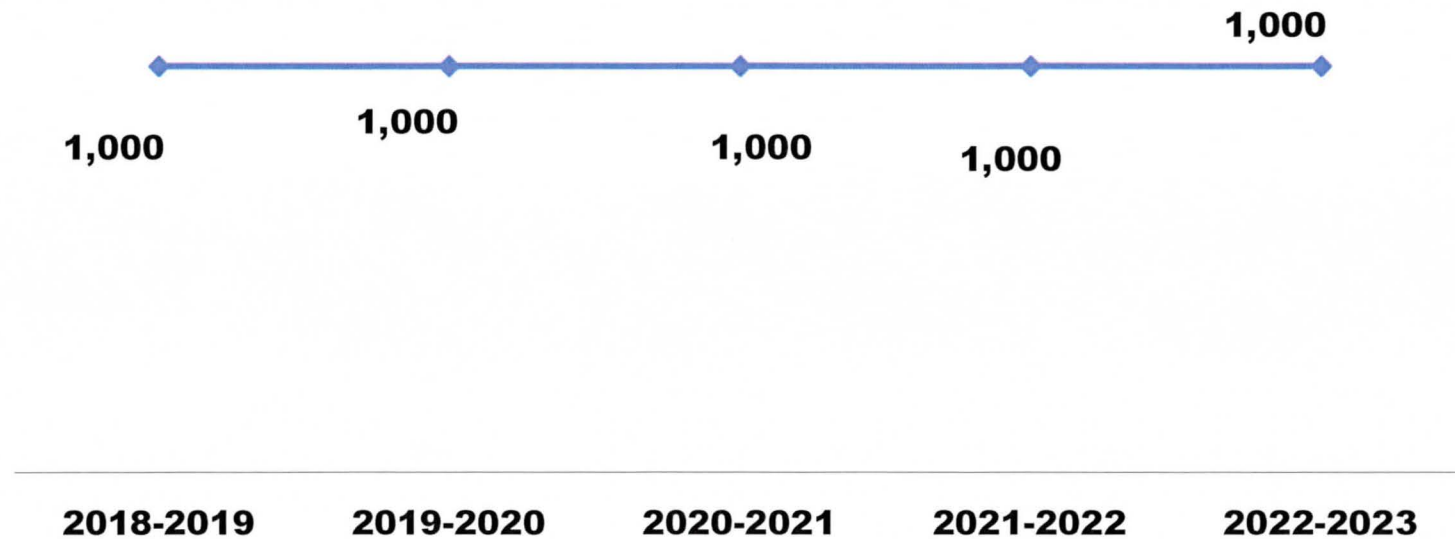
2022-2023 Airport Budget

Industrial Building



2022-2023 Airport Budget

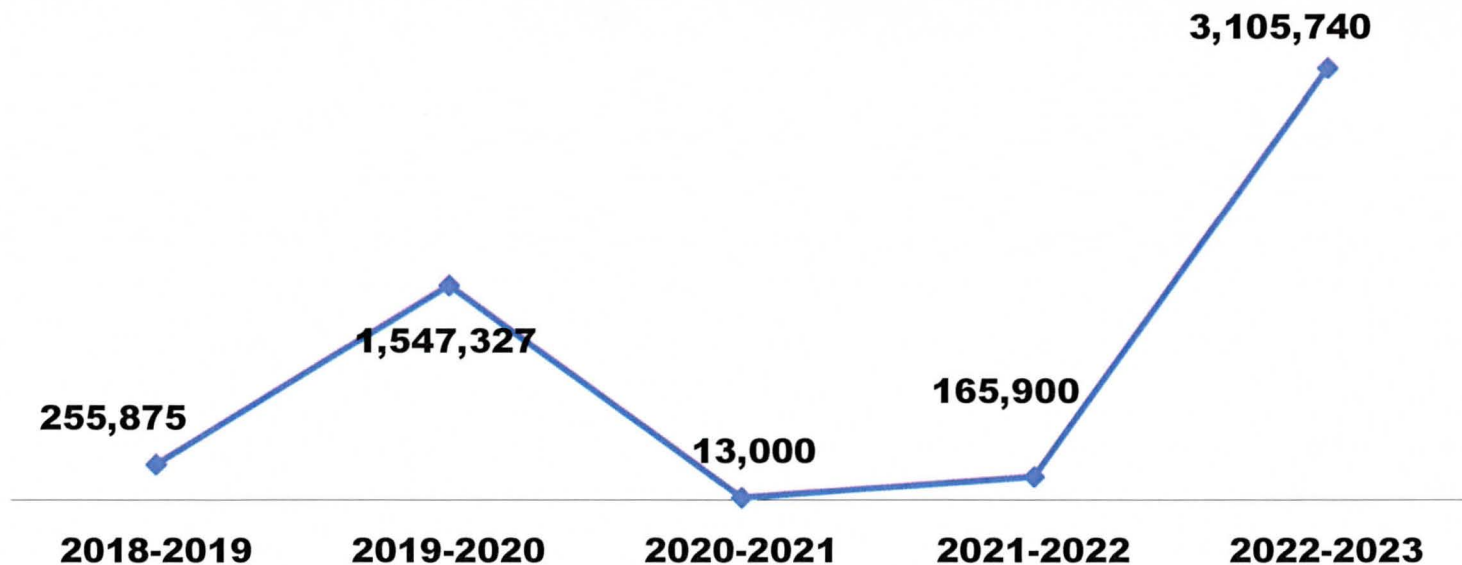
Ramp Rental



2022-2023 Airport Budget

Intergovernmental - FAA Grants

Type of Revenue	Amount Budgeted
FAA Grant Apron Grant	2,406,370
FDOT Share	267,370
AIP Grant	432,000
Total FAA Grants Revenues	3,105,740



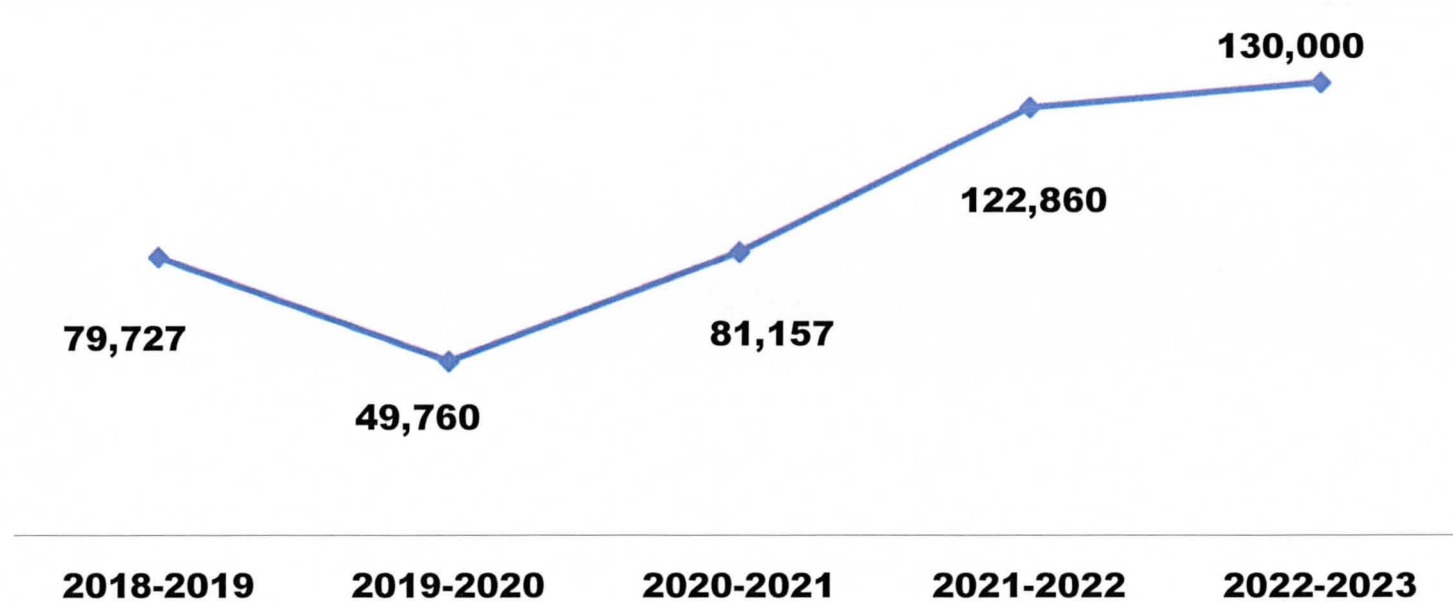
2022-2023 Airport Budget

Fuel Sales

Type of Revenue	Amount Budgeted
Aviation Fuel	130,000
Jet Fuel	75,000
Total Fuel Sales Revenues	205,000

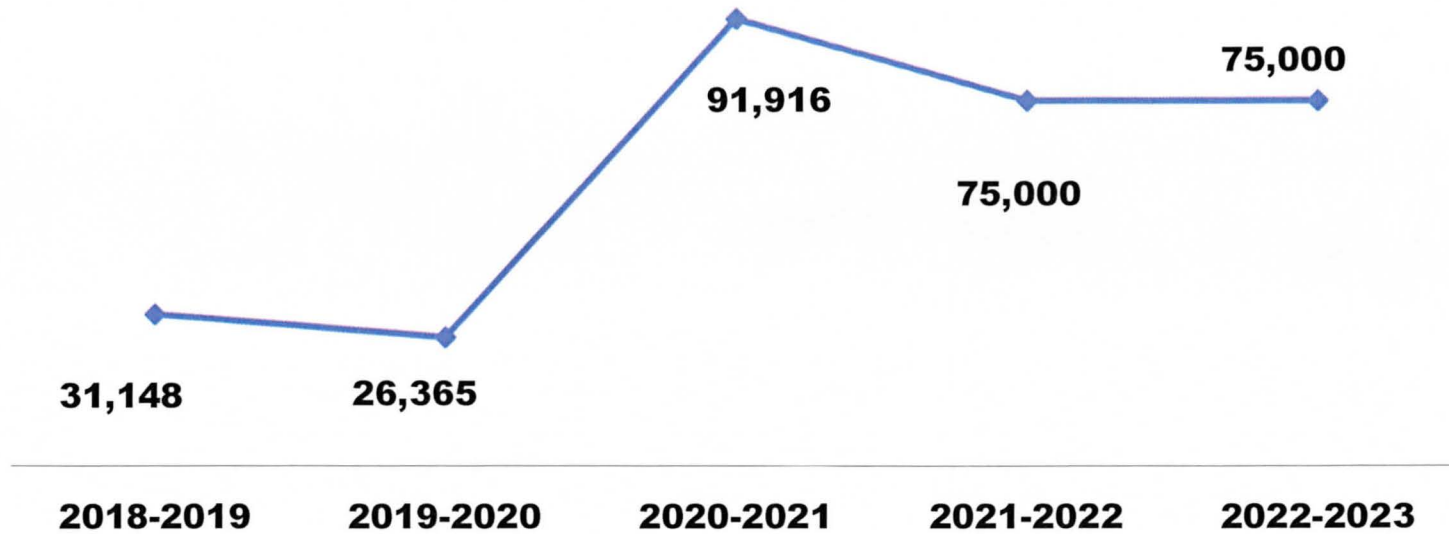
2022-2023 Airport Budget

Aviation Fuel



2022-2023 Airport Budget

Jet Fuel



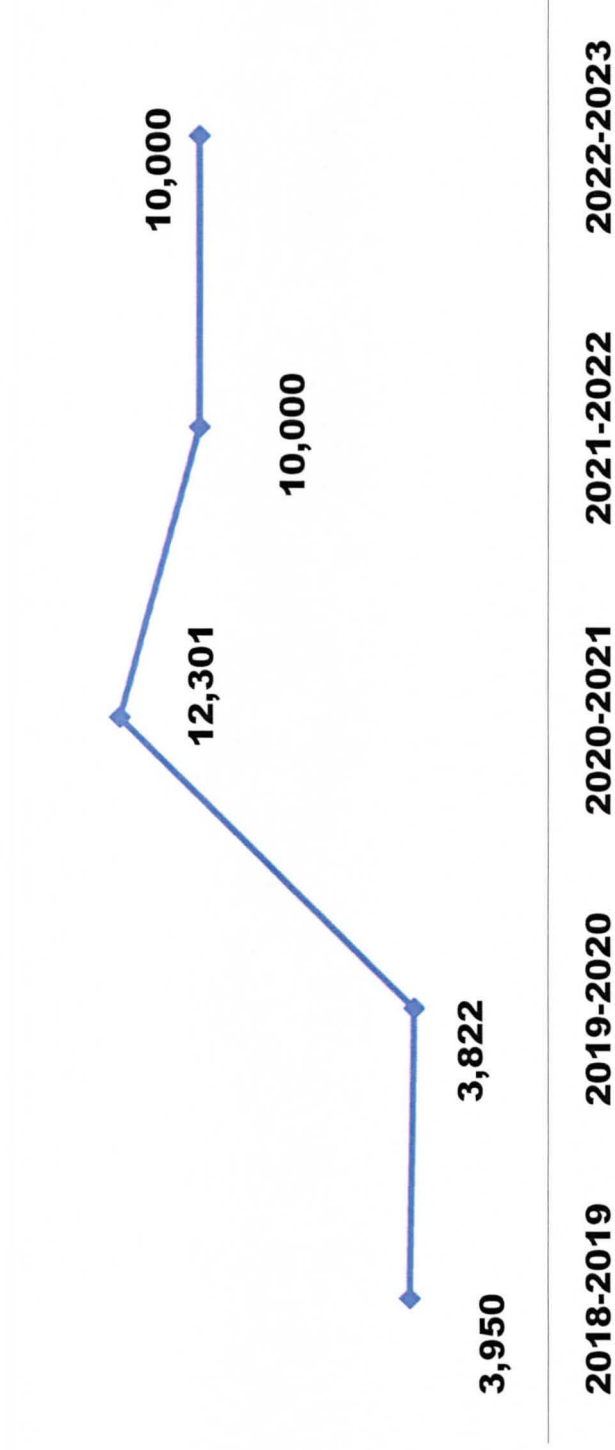
2022-2023 Airport Budget

Other Miscellaneous

Type of Revenue	Amount Budgeted
Penalties	10,000
Property Taxes	40,000
Miscellaneous	1,000
Total Fuel Sales Revenues	51,000

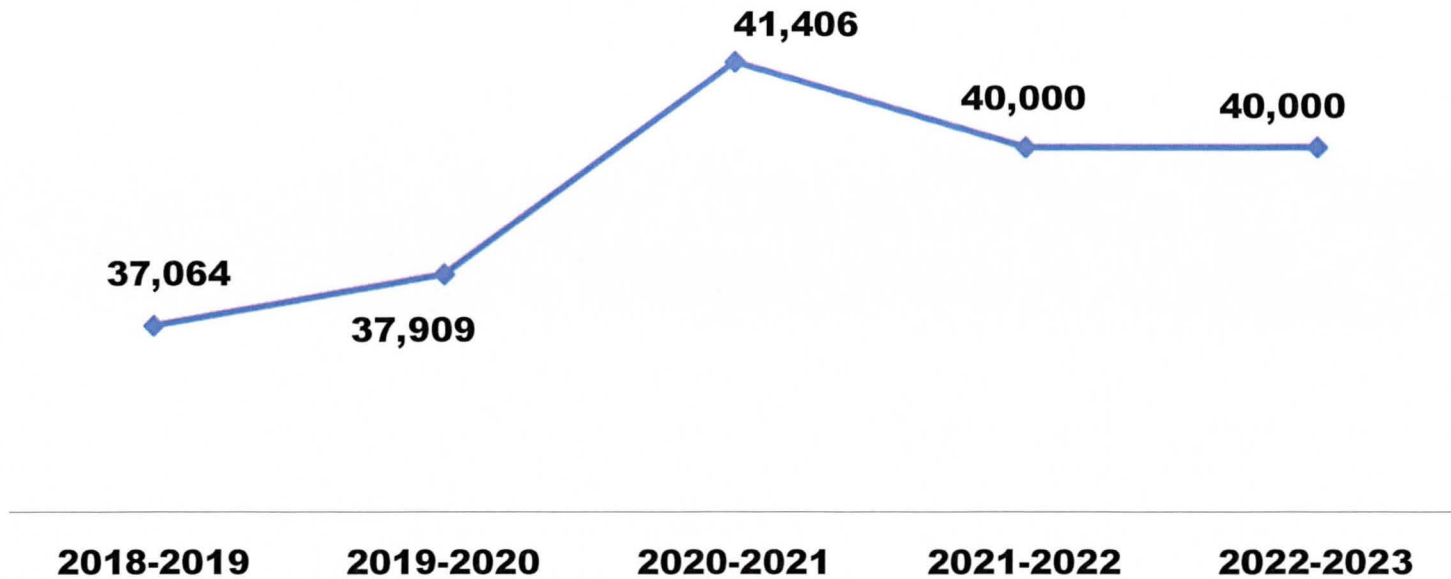
2022-2023 Airport Budget

Penalties



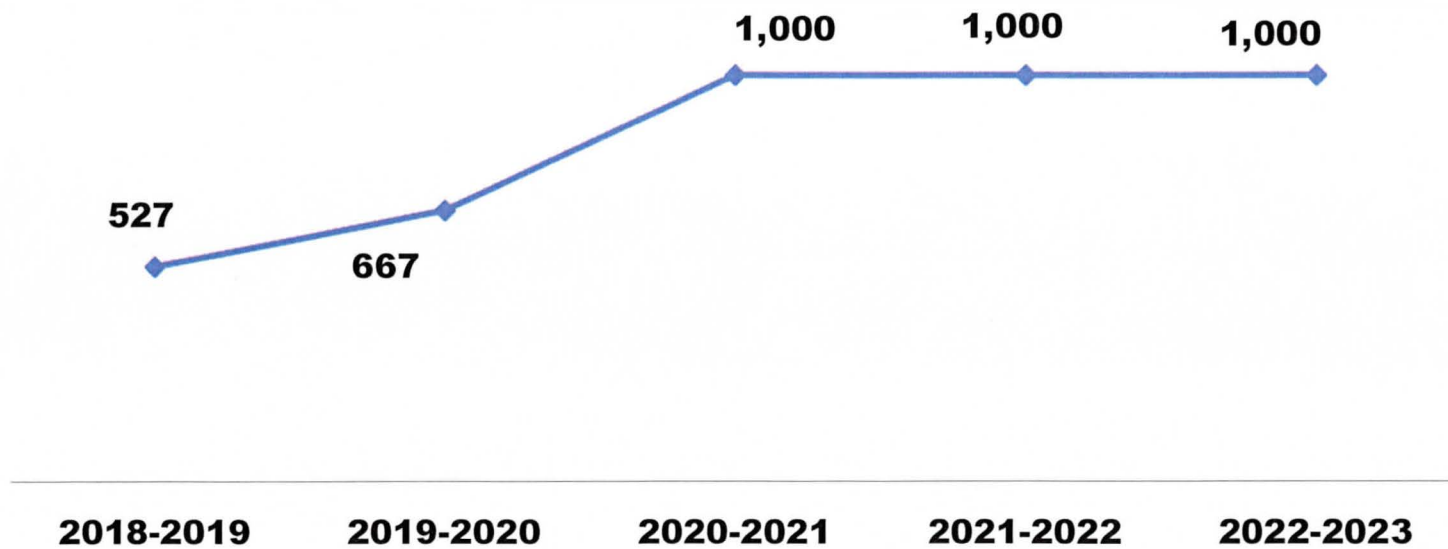
2022-2023 Airport Budget

Property Taxes



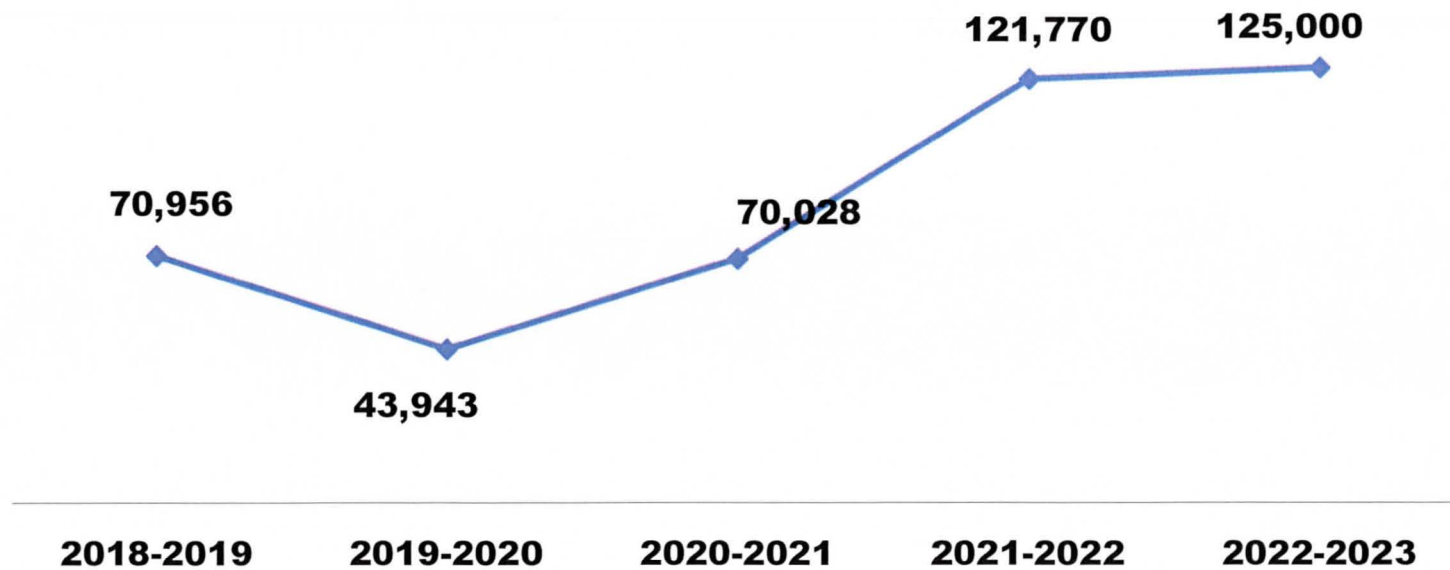
2022-2023 Airport Budget

Miscellaneous



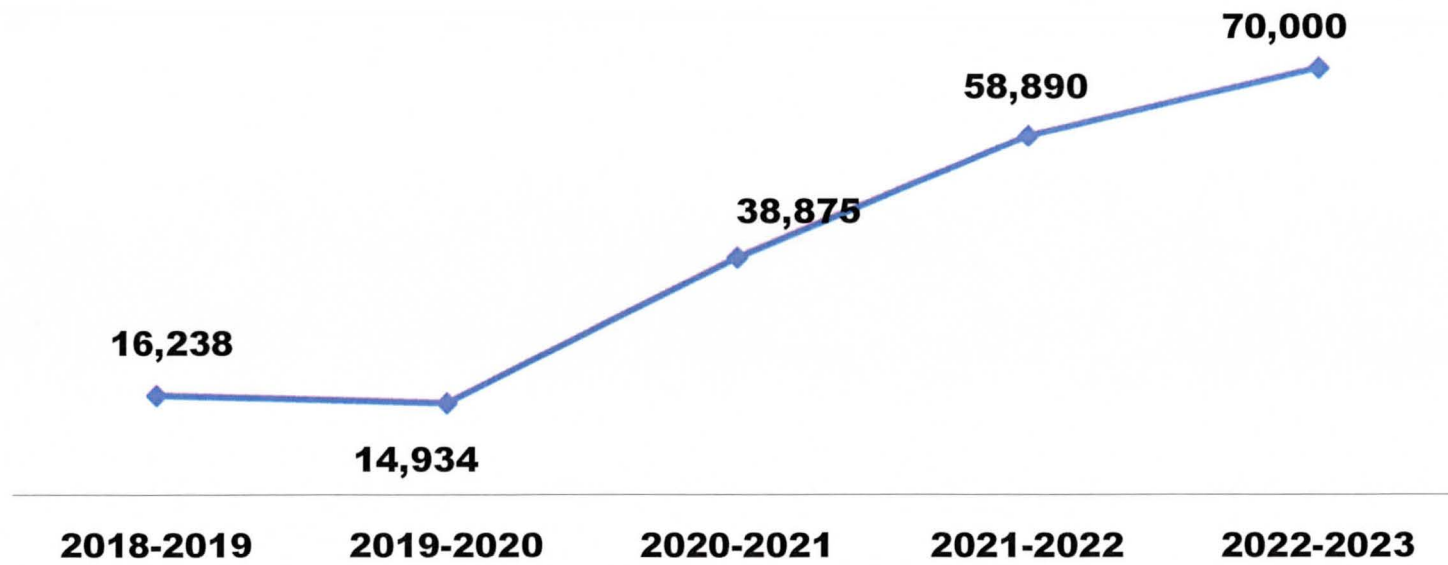
2022-2023 Airport Budget

Expenses – Aviation Fuel



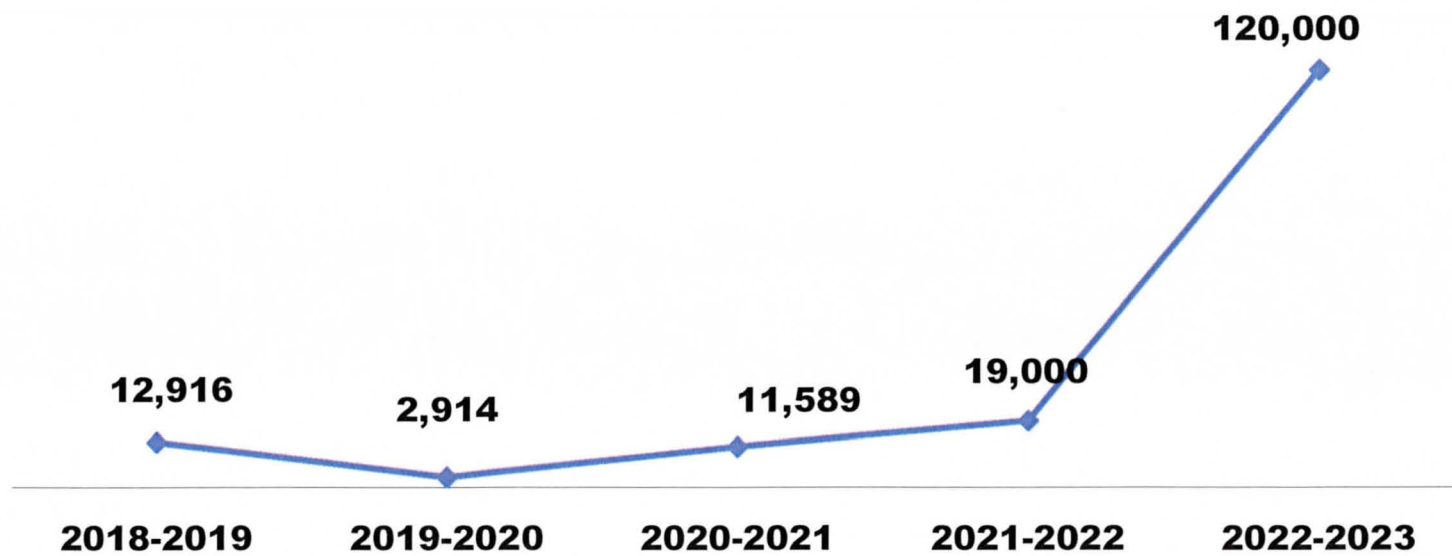
2022-2023 Airport Budget

Jet Fuel



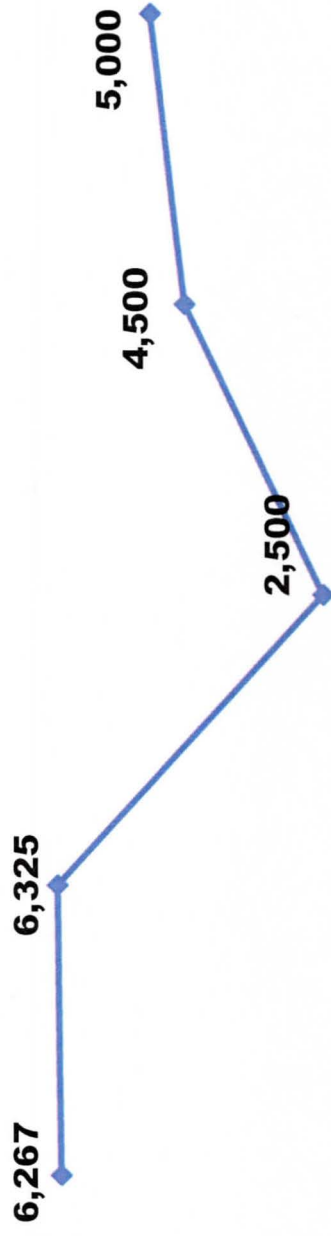
2022-2023 Airport Budget

Professional Services



2022-2023 Airport Budget

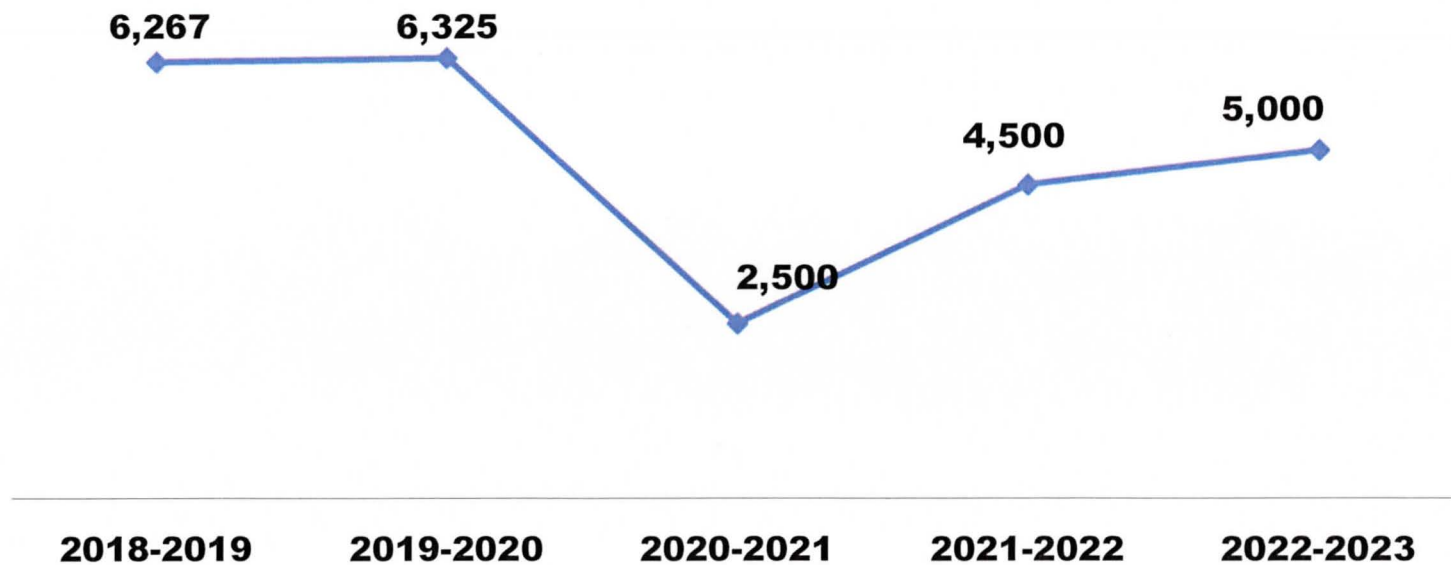
Accounting & Auditing



2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
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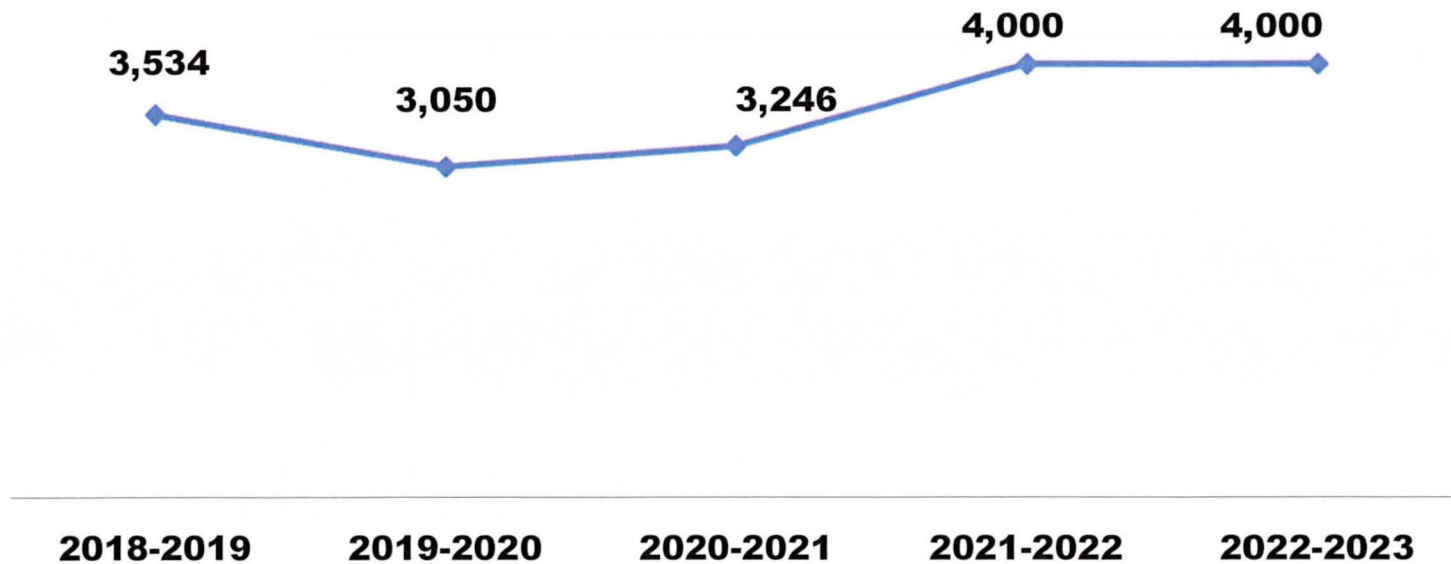
2022-2023 Airport Budget

Other Contractual



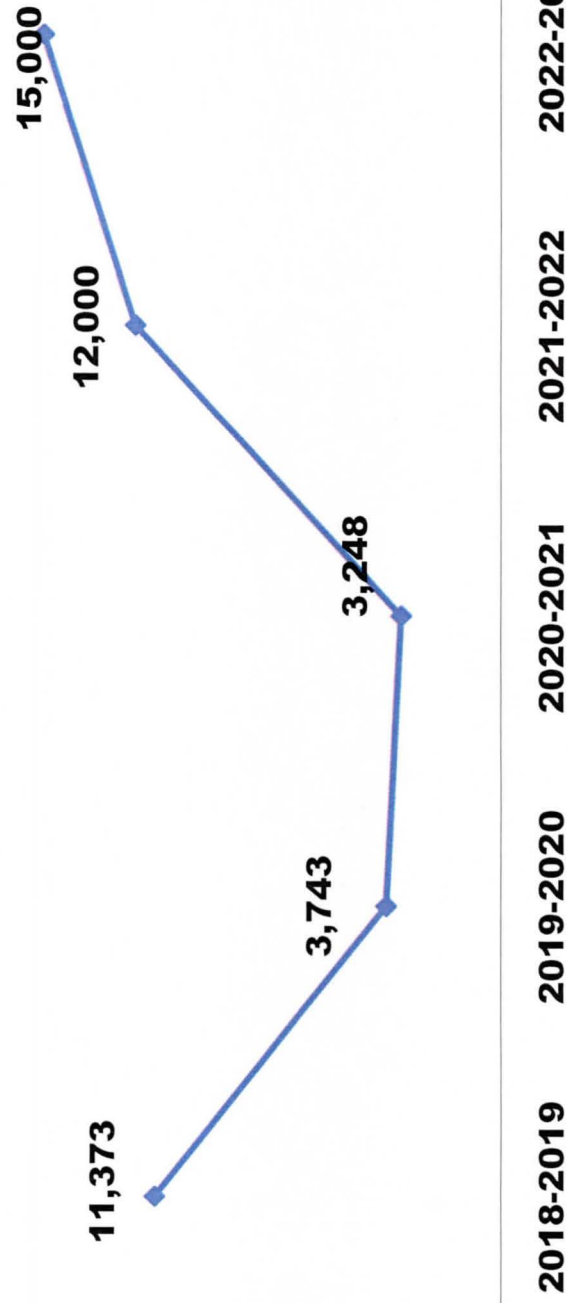
2022-2023 Airport Budget

Communication Services



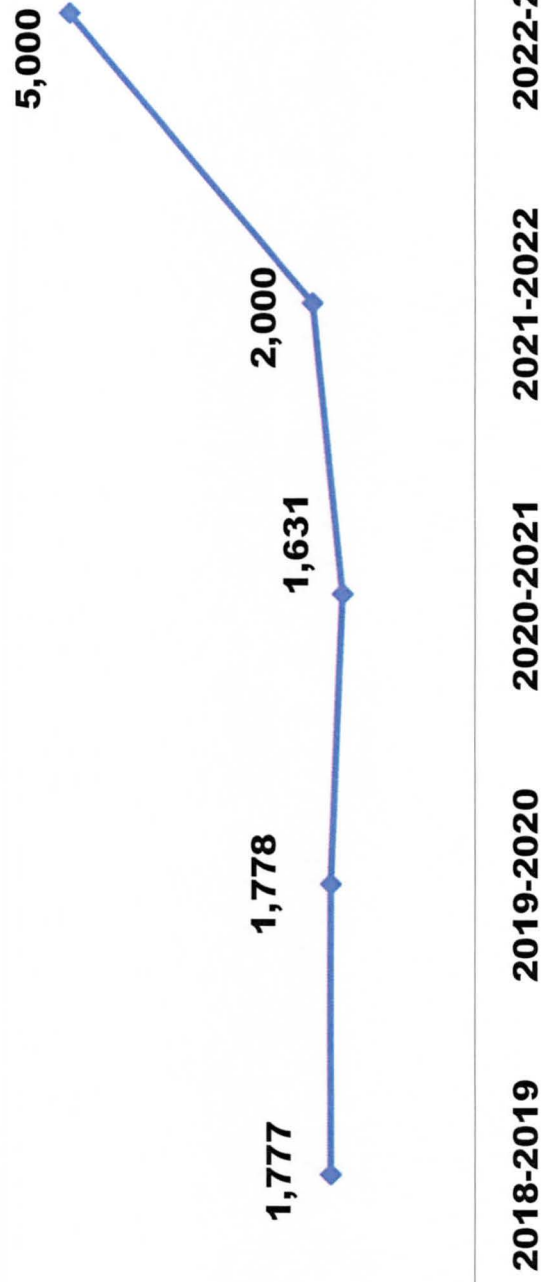
2022-2023 Airport Budget

Electricity



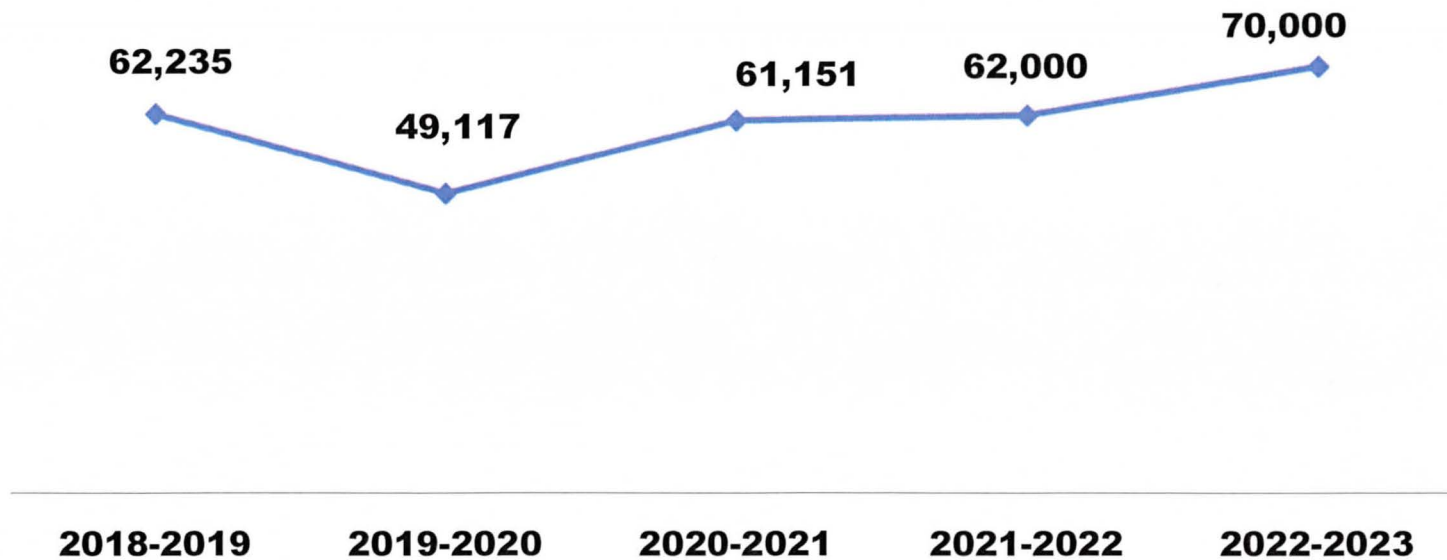
2022-2023 Airport Budget

Water



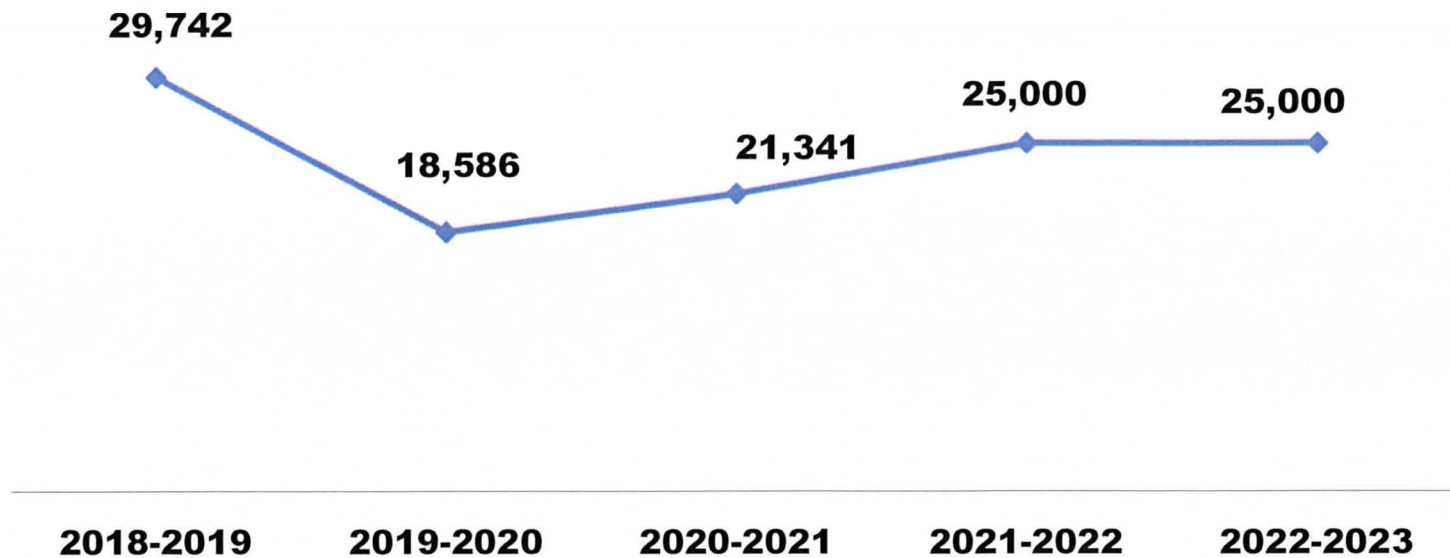
2022-2023 Airport Budget

Insurance



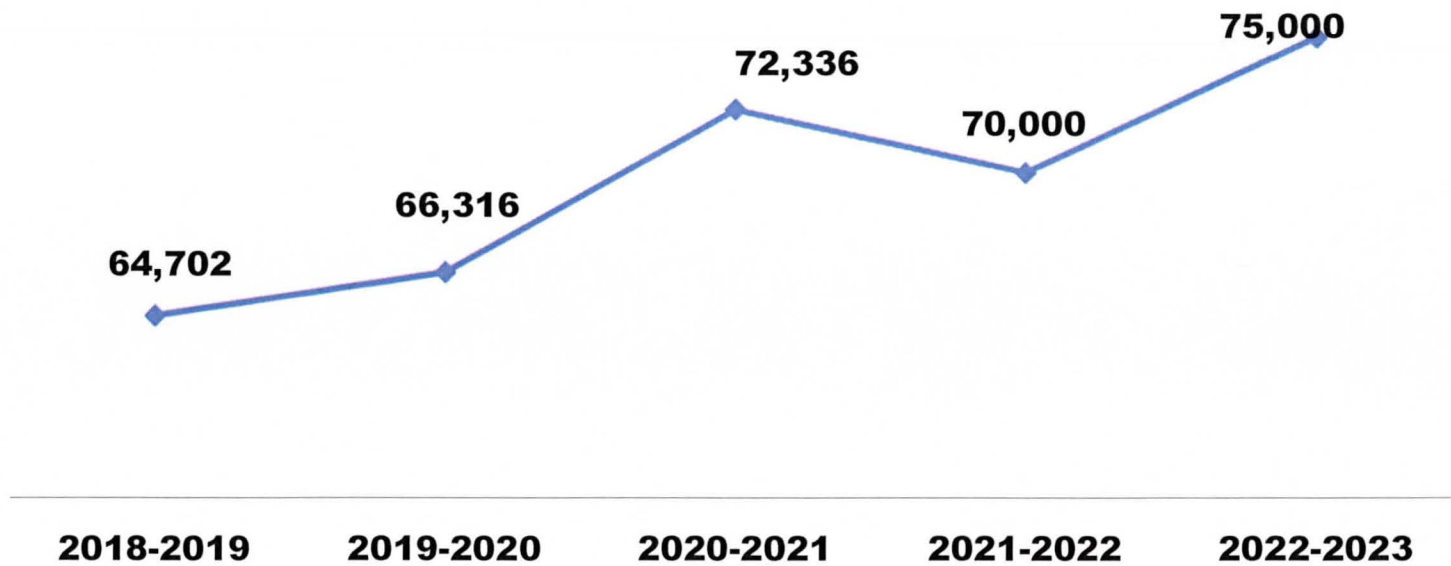
2022-2023 Airport Budget

Repair & Maintenance



2022-2023 Airport Budget

Property Taxes



2022-2023 Airport Budget

Operating Supplies

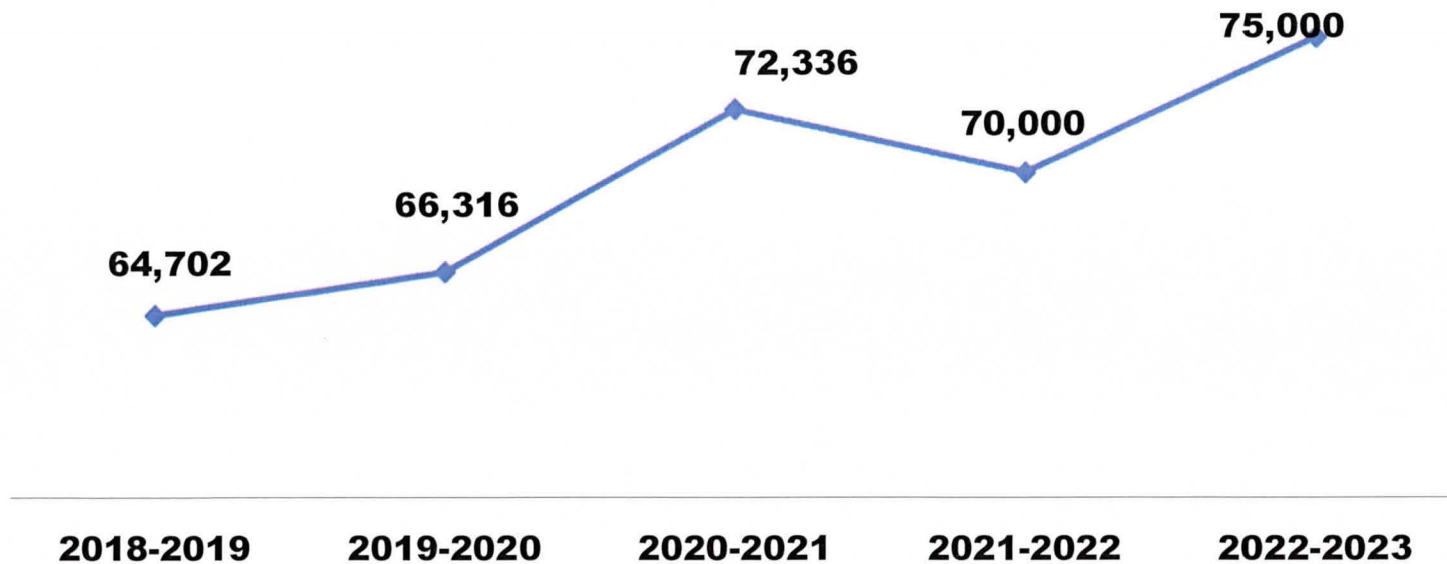


EXHIBIT A

BUDGET SUMMARY

CITY OF AVON PARK FISCAL YEAR 2022-2023

THE ADOPTED OPERATING EXPENDITURES OF THE CITY OF AVON PARK ARE 8.9 PERCENT MORE THAN LAST YEAR'S TOTAL OPERATING EXPENDITURES

	4.3681	GENERAL FUND	INFRA- STRUCTURE	CRA's	WATER & SEWER	AIRPORT	SOLID	TOTAL
Millage/\$1,000 of Property Value								
ESTIMATED REVENUES								
Ad Valorem Tax (Millage/\$1,000)	4.3681	1,568,650						1,568,650
Sales and Use Taxes		440,000	1,300,000					1,740,000
Franchise Fees		647,000						647,000
Utility Service Tax		1,183,000						1,183,000
Business Tax		28,000						28,000
Permits and Fees		200				10,000		10,200
Intergovernmental		5,163,360		672,460		3,105,740		8,941,560
Fines and Forfeitures		16,600						16,600
Charges for Services		687,190			6,389,100		1,472,500	8,548,790
Other		80,600				501,000		581,600
TOTAL SOURCES		9,814,600	1,300,000	672,460	6,389,100	3,616,740	1,472,500	23,265,400
Transfers In		1,900,000			17,890		16,920	1,934,810
Fund Balance/Reserves/Net Assets		3,020,240	4,595,840	537,620	9,751,020		563,710	18,468,430
TOTAL REVENUES, TRANSFERS & FUND BALANCES		14,734,840	5,895,840	1,210,080	16,158,010	3,616,740	2,053,130	43,668,640
ESTIMATED EXPENDITURES								
General Government		1,233,300	100,000					1,333,300
Public Safety		6,179,110	514,440					6,693,550
Physical Environment					6,423,780		1,896,320	8,320,100
Transportation		1,443,600	800,000			3,699,470		5,943,070
Economic Environment				1,210,080				1,210,080
Culture/Recreation		900,600	550,000					1,450,600
TOTAL EXPENDITURES		9,756,610	1,964,440	1,210,080	6,423,780	3,699,470	1,896,320	24,950,700
Operating Transfers Out					1,900,000	50,810		1,950,810
Fund Balance/Reserves/Net Assets		4,978,229	3,931,400	0	7,834,230	(133,540)	156,810	16,767,130
TOTAL EXPENDITURES, TRANSFERS, AND FUND BALANCES		14,734,840	5,895,840	1,210,080	16,158,010	3,616,740	2,053,130	43,668,640
The tentative, adopted, and / or final budget are on file in the office of the above referenced taxing authority as a public record.								
TOTAL INCREASE/(DECREASE) FROM RESERVES		1,957,990	(664,440)	(537,620)	(1,916,790)	(133,540)	(406,900)	(1,701,300)

Agenda Item Summary

Date of Action: September 12, 2022

Subject: Public Hearing: Resolution No. 2022-24,
Tentative Millage Rate FY 2022-2023

Item No.: D-10

Placed on Agenda by: Finance Director, Melody
Sauerhafer

Staff Review: Yes

Attorney Review: Yes

Recommended Motion(s): Recommend Approval of
Resolution No. 2022-24, Tentative Millage Rate FY 2022-
2023

Documentation:

- Resolution No. 2022-24

Background:

Required annually for the Truth in Millage process (TRIM) for
distribution of Ad Valorem Tax Revenue.

RESOLUTION NO. 2022-24

A RESOLUTION OF THE CITY OF AVON PARK OF HIGHLANDS COUNTY, FLORIDA, ADOPTING THE TENTATIVE LEVYING OF AD VALOREM TAXES FOR THE CITY OF AVON PARK, HIGHLANDS COUNTY FOR FISCAL YEAR 2022-2023; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Avon Park of Highlands County, Florida, on September 12, 2022, adopted Fiscal Year 2021-2022 Tentative Millage Rate following a public hearing as required by Florida Statute 200.065;

WHEREAS, the City of Avon Park of Highlands County, Florida, held a public hearing as required by Florida Statute 200.065; and

WHEREAS, the gross taxable value for operating purposes not exempt from taxation within Highlands County has been certified by the County Property Appraiser to the City of Avon Park as \$378,015,392.

NOW, THEREFORE, BE IT RESOLVED by the City of Avon Park of Highlands County, Florida, that:

1. The Fiscal Year 2022-2023 Tentative Operating Millage is 4.3681 mills, which is greater than the rolled-back rate of 2.3440 mills by 86.35%.
2. This Resolution will take effect immediately upon its adoption.

DULY ADOPTED at a public hearing this 12th day of September 2022.

Time Adopted _____p.m.

Christian Hardman, City Clerk
City of Avon Park

Garrett Anderson, Mayor
City of Avon Park

Approved as to Form:

Gerald Buhr, City Attorney

Agenda Item Summary

Date of Action: September 12, 2022

Subject: Public Hearing: Resolution No. 2022-25,
Tentative Budget FY 2022-2023

Item No.: D-11

Placed on Agenda by: Finance Director, Melody
Sauerhafer

Staff Review: Yes

Attorney Review: Yes

Recommended Motion(s): Recommend Approval of
Resolution No. 2022-25, Tentative Budget FY 2022-2023

Documentation:

- Resolution No. 2022-25
- Exhibit A- Budget Summary

Background:

Required annually for the Truth in Millage process (TRIM) for
distribution of Ad Valorem Tax Revenue.

RESOLUTION NO. 2022-25

A RESOLUTION OF THE CITY OF AVON PARK OF HIGHLANDS COUNTY,
FLORIDA, ADOPTING THE TENTATIVE BUDGET FOR FISCAL YEAR 2022-
2023; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Avon Park of Highlands County, Florida, on September 12, 2022, held a public hearing as required by Florida Statute 200.065; and

WHEREAS, the City of Avon Park of Highlands County, Florida, set forth the appropriations and revenue estimate for the Budget for Fiscal Year 2022-2023 in the amount of _____ (Exhibit A).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AVON PARK, FLORIDA:

PASSED, ADOPTED AND APPROVED THIS 12TH DAY OF SEPTEMBER, 2022.

=====

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilperson/Mayor Anderson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson /Dep.Mayor Barnard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson Taylor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson McGuire	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson Mercure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(Seal)

ATTEST:

CITY OF AVON PARK, FLORIDA

By: _____

Christian Hardman, City Clerk

By: _____

Garrett Anderson, Mayor

**APPROVED AS TO FORM AND
SUBSTANCE:**

Gerald Buhr, City Attorney

EXHIBIT A**BUDGET SUMMARY****CITY OF AVON PARK FISCAL YEAR 2022-2023**

THE ADOPTED OPERATING EXPENDITURES OF THE CITY OF AVON PARK ARE 8.9PERCENT MORE THAN LAST YEAR'S TOTAL OPERATING EXPENDITURES

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Franchise Fees		647,000						647,000
Utility Service Tax		1,183,000						1,183,000
Business Tax		28,000						28,000
Permits and Fees		200				10,000		10,200
Intergovernmental		5,163,360		672,460		3,105,740		8,941,560
Fines and Forfeitures		16,600						16,600
Charges for Services		687,190			6,389,100		1,472,500	8,548,790
Other		80,600				501,000		581,600
TOTAL SOURCES		9,814,600	1,300,000	672,460	6,389,100	3,616,740	1,472,500	23,265,400
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ESTIMATED EXPENDITURES								
General Government		1,233,300	100,000					1,333,300
Public Safety		6,179,110	514,440					6,693,550
Physical Environment					6,423,780		1,896,320	8,320,100
Transportation		1,443,600	800,000			3,699,470		5,943,070
Economic Environment				1,210,080				1,210,080
Culture/Recreation		900,600	550,000					1,450,600
Debt Service								0
TOTAL EXPENDITURES		9,756,610	1,964,440	1,210,080	6,423,780	3,699,470	1,896,320	24,950,700
Operating Transfers Out					1,900,000	50,810		1,950,810
Fund Balance/Reserves/Net Assets		4,978,229	3,931,400	0	7,834,230	(133,540)	156,810	16,767,130
TOTAL EXPENDITURES, TRANSFERS, AND FUND BALANCES		14,734,840	5,895,840	1,210,080	16,158,010	3,616,740	2,053,130	43,668,640

The tentative, adopted, and / or final budget are on file in the office of the above referenced taxing authority as a public record.

Agenda Item Summary

Date of Action: September 12, 2022

Subject: Florida Department of Transportation Small Communities Outreach Program Grant

Item No.: D-12

Placed on Agenda by: Finance Director, Melody Sauerhafer

Staff Review: Yes

Attorney Review: Yes

Recommended Motion(s): Approve State Funded Grant Agreement

Documentation: State Funded Grant Agreement
Resolution 2022-22

Background: These funds will be used resurface Fred Conner Street from West Carolina Avenue to East Memorial Drive.

Total Project Cost \$69,196 – 100% Grant Funded.

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FPN: <u>449669-1-54-01</u>	Fund: <u>SCRC</u> Org Code: <u>55014010106</u>	FLAIR Category: _____ FLAIR Obj: <u>751000</u>
FPN: _____	Fund: _____ Org Code: _____	FLAIR Category: _____ FLAIR Obj: _____
FPN: _____	Fund: _____ Org Code: _____	FLAIR Category: _____ FLAIR Obj: _____
County No: <u>09 - Highlands County</u>	Contract No: _____	Vendor No: <u>F596000269501</u>

THIS STATE-FUNDED GRANT AGREEMENT ("Agreement") is entered into on _____, (This date to be entered by DOT only)
 by and between the State of Florida Department of Transportation, ("Department"), and City of Avon Park, ("Recipient").
 The

Department and the Recipient are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties".

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

1. **Authority:** The Department is authorized to enter into this Agreement pursuant to Sections 334.044, 334.044(7), and (select the applicable statutory authority for the program(s) below):
 - ☐ Section 339.2817 Florida Statutes, County Incentive Grant Program (CIGP), (CSFA 55.008)
 - ☒ Section 339.2818 Florida Statutes, Small County Outreach Program (SCOP), (CSFA 55.009)
 - ☐ Section 339.2816 Florida Statutes, Small County Road Assistance Program (SCRAP), (CSFA 55.016)
 - ☐ Section 339.2819 Florida Statutes, Transportation Regional Incentive Program (TRIP), (CSFA 55.026)
 - ☐ Insert Legal Authority , Insert Funding Program Name , Insert CSFA Number

The Recipient by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D"**, **Recipient Resolution**, and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf.

2. **Purpose of Agreement:** The purpose of this Agreement is to provide for the Department's participation in the design, construction, and CEI for the resurfacing of Fred Connor Street from South Carolina Avenue to Memorial Drive, as further described in **Exhibit "A", Project Description and Responsibilities**, attached to and incorporated into this Agreement ("Project"); to provide Department financial assistance to the Recipient; state the terms and conditions upon which Department funds will be provided; and to set forth the manner in which the Project will be undertaken and completed.
3. **Term of the Agreement, Commencement and Completion of the Project:** This Agreement shall commence upon full execution by both Parties and the Recipient shall complete the Project on or before 12/31/2027. If the Recipient does not complete the Project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Recipient and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The Recipient acknowledges that no funding for the Project will be provided by the State under this Agreement for work on the Project that is not timely completed and invoiced in accordance with the terms of this Agreement, or for work performed prior to full execution of the Agreement. Notwithstanding the expiration of the required completion date provided in this Agreement and the consequent potential unavailability of any unexpended portion of State funding to be provided under this Agreement, the

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Recipient shall remain obligated to complete all aspects of the Project identified in **Exhibit "A"** in accordance with the remaining terms of this Agreement, unless otherwise agreed by the Parties, in writing.

Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Recipient for the design phase or other non-construction phases of the Project. If the Project involves a construction phase, the Recipient shall not begin the construction phase of the Project until the Department issues a written Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Recipient shall request a Notice to Proceed from the Department.

4. **Amendments, Extensions and Assignment:** This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be assigned, transferred or otherwise encumbered by the Recipient under any circumstances without the prior written consent of the Department.
5. **Termination or Suspension of Project:** The Department may, by written notice to the Recipient, suspend any or all of the Department's obligations under this Agreement for the Recipient's failure to comply with applicable laws or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected. The Department may also terminate this Agreement in whole or in part at any time the interest of the Department requires such termination.
 - a. If the Department terminates the Agreement, the Department shall notify the Recipient of such termination in writing within thirty (30) days of the Department's determination to terminate the Agreement, with instructions as to the effective date of termination or to specify the stage of work at which the Agreement is to be terminated.
 - b. The Parties to this Agreement may also terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions through mutual written agreement.
 - c. If the Agreement is terminated before performance is completed, the Recipient shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Recipient.
 - d. Upon termination of this Agreement, the Recipient shall, within thirty (30) days, refund to the Department any funds determined by the Department to have been expended in violation of this Agreement.
6. **Project Cost:**
 - a. The estimated cost of the Project is \$69,196.00 (Sixty-Nine Thousand One Hundred Ninety-Six Dollars). This amount is based upon the Schedule of Financial Assistance in **Exhibit "B", Schedule of Financial Assistance**, attached and incorporated in this Agreement. The Schedule of Financial Assistance may be modified by execution of an amendment of the Agreement by the Parties.
 - b. The Department agrees to participate in the Project cost up to the maximum amount of \$69,196.00 (Sixty-Nine Thousand One Hundred Ninety-Six Dollars) and, additionally the Department's participation in the Project shall not exceed 100% of the total cost of the Project, and as more fully described in **Exhibit "B"**. The Department's participation may be increased or reduced upon a determination of the actual bid amounts of the Project by the execution of an amendment. The Recipient agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits incurred in connection with completion of the Project.
 - c. The Department's participation in eligible Project costs is subject to, but not limited to:
 - i. Legislative approval of the Department's appropriation request in the work program year that the Project is scheduled to be committed;

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- ii. Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement; and
- iii. Department approval of the Project scope and budget at the time appropriation authority becomes available.

7. Compensation and Payment:

- a. The Department shall reimburse the Recipient for costs incurred to perform services described in the Project Description and Responsibilities in **Exhibit "A"**, and as set forth in the Schedule of Financial Assistance in **Exhibit "B"**.
- b. The Recipient shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A"**, Project Description and Responsibilities. Any changes to the deliverables shall require an amendment executed by both parties.
- c. Invoices shall be submitted no more often than monthly and no less than quarterly by the Recipient in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable and verifiable deliverables as established in **Exhibit "A"**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursements. Requests for reimbursement by the Recipient shall include an invoice, progress report and supporting documentation for the period of services being billed that are acceptable to the Department. The Recipient shall use the format for the invoice and progress report that is approved by the Department.
- d. Supporting documentation must establish that the deliverables were received and accepted in writing by the Recipient and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A"** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F"**, **Contract Payment Requirements**.
- e. Travel expenses are not compensable under this Agreement.
- f. Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under Section 334.044(29), Florida Statutes.

If the Department determines that the performance of the Recipient is unsatisfactory, the Department shall notify the Recipient of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Recipient shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Recipient will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Recipient will not be reimbursed to the extent of the non-performance. The Recipient will not be reimbursed until the Recipient resolves the deficiency. If the deficiency is subsequently resolved, the Recipient may bill the Department for the unpaid reimbursement request(s) during the next billing period. If the Recipient is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

Recipients receiving financial assistance from the Department should be aware of the following time frames. Inspection and approval of deliverables and costs incurred shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables and costs incurred are received, inspected, and approved.

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If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Recipient. Interest penalties of less than one (1) dollar will not be enforced unless the Recipient requests payment. Invoices that have to be returned to a Recipient because of Recipient preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Recipient who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

- g. The Recipient shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Recipient's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the contractor and subcontractors considered necessary by the Department for a proper audit of costs.
- h. **Progress Reports.** Upon request, the Recipient agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.
- i. If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Recipient owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- j. The Recipient must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- k. The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's financial assistance for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Recipient. See **Exhibit "B"** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Recipient, in writing, when funds are available.
- l. In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."

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- m. Any Project funds made available by the Department pursuant to this Agreement which are determined by the Department to have been expended by the Recipient in violation of this Agreement or any other applicable law or regulation, shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Recipient files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.
- n. In determining the amount of the payment, the Department will exclude all Project costs incurred by the Recipient prior to the execution of this Agreement, costs incurred prior to issuance of a Notice to Proceed, costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved Schedule of Financial Assistance in **Exhibit "B"** for the Project, costs agreed to be borne by the Recipient or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

8. General Requirements:

The Recipient shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

- a. The Recipient must obtain written approval from the Department prior to performing itself (through the efforts of its own employees) any aspect of the Project that will be funded under this Agreement.
 - ☐ If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce**. In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).
- b. The Recipient shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, including if no right-of-way is required.
- c. The Recipient shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.
- d. The Recipient shall have the sole responsibility for resolving claims and requests for additional work for the Project by the Recipient's contractors and consultants. No funds will be provided for payment of claims or additional work on the Project under this Agreement without the prior written approval of the claim or request for additional work by Department.

9. Contracts of the Recipient

- a. The Department has the right to review and approve any and all third party contracts with respect to the Project before the Recipient executes any contract or obligates itself in any manner requiring the disbursement of Department funds under this Agreement, including consultant or construction contracts or amendments thereto. If the Department exercises this right and the Recipient fails to obtain such approval, the Department may deny payment to the Recipient. The Department may review the qualifications of any consultant or contractor and to approve or disapprove the employment of such consultant or contractor.
- b. It is understood and agreed by the parties hereto that participation by the Department in a project that involves the purchase of commodities or contractual services or the purchasing of capital equipment or the equipping of facilities, where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Chapter 287.017 Florida Statutes, is contingent on the Recipient complying in full with the provisions of Chapter 287.057 Florida Statutes. The Recipient shall certify to the Department that the purchase of commodities or contractual services has been accomplished in compliance with Chapter 287.057 Florida Statutes. It shall be the sole responsibility of the Recipient to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders,

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construction change orders, or any other agreement that would result in exceeding the current budget contained in **Exhibit "B"**, or that are not consistent with the Project description and scope of services contained in **Exhibit "A"** must be approved by the Department prior to Recipient execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department.

- c. Participation by the Department in a project that involves a consultant contract for engineering, architecture or surveying services, is contingent on the Recipient's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Recipient shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.
- d. If the Project is procured pursuant to Chapter 255 for construction services and at the time of the competitive solicitation for the Project 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Recipient must comply with the requirements of Section 255.0991, Florida Statutes.

10. Design and Construction Standards and Required Approvals: In the event the Project includes construction the following provisions are incorporated into this Agreement:

- a. The Recipient is responsible for obtaining all permits necessary for the Project.
- b. In the event the Project involves construction on the Department's right-of-way, the Recipient shall provide the Department with written notification of either its intent to:
 - i. Award the construction of the Project to a Department prequalified contractor which is the lowest and best bidder in accordance with applicable state and federal statutes, rules, and regulations. The Recipient shall then submit a copy of the bid tally sheet(s) and awarded bid contract, or
 - ii. Construct the Project utilizing existing Recipient employees, if the Recipient can complete said Project within the time frame set forth in this Agreement. The Recipient's use of this option is subject to approval by the Department.
- c. The Recipient shall hire a qualified contractor using the Recipient's normal bid procedures to perform the construction work for the Project. For projects that are not located on the Department's right-of-way, the Recipient is not required to hire a contractor prequalified by the Department unless the Department notifies the Recipient prior to letting that they are required to hire a contractor prequalified by the Department.
- d. The Recipient is responsible for provision of Construction Engineering Inspection (CEI) services. The Department reserves the right to require the Recipient to hire a Department pre-qualified consultant firm that includes one individual that has completed the Advanced Maintenance of Traffic Level Training. Notwithstanding any provision of law to the contrary, design services and CEI services may not be performed by the same entity. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by Department. The Department shall have the right to approve the CEI firm. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. Subject to the approval of the Department, the Recipient may choose to satisfy the requirements set forth in this paragraph by either hiring a Department prequalified consultant firm or utilizing Recipient staff that meet the requirements of this paragraph, or a combination thereof.
- e. The Recipient is responsible for the preparation of all design plans for the Project. The Department reserves the right to require the Recipient to hire a Department pre-qualified consultant for the design phase of the Project using the Recipient's normal procurement procedures to perform the design services for the Project. Notwithstanding any provision of law to the contrary, design services and CEI services may not be performed by the same entity. All design work on the Project shall be performed in accordance with the requirements of all applicable laws and governmental rules and regulations and federal and state accepted design standards for the type of construction contemplated by the Project, including, as applicable, but not

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limited to, the applicable provisions of the Manual of Uniform Traffic Control Devices (MUTCD) and the AASHTO Policy on Geometric Design of Streets and Highways. If any portion of the Project will be located on, under, or over any Department-owned right-of-way, the Department shall review the Project's design plans for compliance with all applicable standards of the Department, as provided in **Exhibit "O", Terms and Conditions of Construction**, which is attached to and incorporated into this Agreement.

- f. The Recipient shall adhere to the Department's Conflict of Interest Procedure (FDOT Topic No. 375-030-006).
- g. The Recipient will provide copies of the final design plans and specifications and final bid documents to the Department's Construction Project Manager prior to commencing construction of the Project. The Department will specify the number of copies required and the required format.
- h. The Recipient shall require the Recipient's contractor to post a payment and performance bond in accordance with applicable law.
- i. The Recipient shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that it will meet all applicable Recipient and Department standards.
- j. Upon completion of the work authorized by this Agreement, the Recipient shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineers Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached hereto and incorporated herein as **Exhibit "C", Engineers Certification of Completion**. The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.
- k. The Recipient shall provide the Department with as-built plans of any portions of the Project funded through the Agreement prior to final inspection.

11. Maintenance Obligations: In the event the Project includes construction then the following provisions are incorporated into this Agreement:

- a. The Recipient agrees to maintain any portion of the Project not located on the State Highway System constructed under this Agreement for its useful life. If the Recipient constructs any improvement on Department right-of-way, the Recipient

☒ shall

☐ shall not

maintain the improvements located on the Department right-of-way made for their useful life. If the Recipient is required to maintain Project improvements located on the Department right-of-way beyond final acceptance, then Recipient shall, prior to any disbursement of the State funding provided under this Agreement, also execute a Maintenance Memorandum of Agreement in a form that is acceptable to the Department. The Recipient has agreed to the foregoing by resolution, and such resolution is attached and incorporated into this Agreement as **Exhibit "D"**. This provision will survive termination of this Agreement.

12. State Single Audit: The administration of resources awarded through the Department to the Recipient by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any state agency inspector general, the Auditor General, or any other state official. The Recipient shall comply with all audit and audit reporting requirements as specified below.

- a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Recipient's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures including, reviewing any required performance and

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financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS) or the Auditor General.

- b. The Recipient, a nonstate entity as defined by Section 215.97(2)(n), Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement is subject to the following requirements:
- i. In the event the Recipient meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Recipient must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "J", State Financial Assistance (Florida Single Audit Act)** to this Agreement indicates state financial assistance awarded through the Department by this Agreement needed by the Recipient to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
 - ii. In connection with the audit requirements, the Recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
 - iii. In the event the Recipient does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Recipient is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Recipient must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Recipient's audit period for each applicable audit year. In the event the Recipient does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Recipient's resources (i.e., the cost of such an audit must be paid from the Recipient's resources obtained from other than State entities).
 - iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

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Florida Department of Transportation
Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, FL 32399-0405
Email: FDOTSingleAudit@dot.state.fl.us

And

State of Florida Auditor General
Local Government Audits/342
111 West Madison Street, Room 401
Tallahassee, FL 32399-1450
Email: flaudgen_localgovt@aud.state.fl.us

- v. Any copies of financial reporting packages, reports or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
 - vi. The Recipient, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Recipient in correspondence accompanying the reporting package.
 - vii. Upon receipt, and within six months, the Department will review the Recipient's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Recipient fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.
 - viii. As a condition of receiving state financial assistance, the Recipient shall permit the Department, or its designee, DFS or the Auditor General access to the Recipient's records including financial statements, the independent auditor's working papers and project records as necessary. Records related to unresolved audit findings, appeals or litigation shall be retained until the action is complete or the dispute is resolved.
- c. The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department, or its designee, DFS or the Auditor General access to such records upon request. The Recipient shall ensure that the audit working papers are made available to the Department, or its designee, DFS or the Auditor General upon request for a period of five years from the date the audit report is issued unless extended in writing by the Department.

13. Restrictions, Prohibitions, Controls and Labor Provisions:

- a. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- b. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public

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entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity.

- c. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Recipient.
- d. No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.
- e. The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.
- f. The Recipient shall:
 - i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Recipient during the term of the contract; and
 - ii. Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- g. The Recipient shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.

14. Indemnification and Insurance:

- a. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third-party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Recipient guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Recipient or any subcontractor, in connection with this Agreement.
- b. To the extent provided by law, Recipient shall indemnify, defend, and hold harmless the Department against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of Recipient, or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by Recipient hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes. The foregoing indemnification shall not constitute a waiver of the Department's or the Recipient's sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by Recipient to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or for the acts of third parties. Nothing herein shall be construed as consent by Recipient to be sued by third parties in any manner arising out of this Agreement. This indemnification shall survive the termination of this Agreement.
- c. Recipient agrees to include the following indemnification in all contracts with contractors, subcontractors, consultants, or subconsultants (each referred to as "Entity" for the purposes of the below indemnification) who perform work in connection with this Agreement:

"To the extent provided by law, [ENTITY] shall indemnify, defend, and hold harmless the [RECIPIENT] and the State of Florida, Department of Transportation, including the Department's officers, agents, and employees, against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of [ENTITY], or any of its officers, agents, or

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employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by [ENTITY].

The foregoing indemnification shall not constitute a waiver of the Department's or [RECIPIENT]'s sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify [RECIPIENT] for the negligent acts or omissions of [RECIPIENT], its officers, agents, or employees, or third parties. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or third parties. This indemnification shall survive the termination of this Agreement."

- d. The Recipient shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subcontracting any of the work, ensure that the subcontractor(s) and subconsultants have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships or partners are covered by insurance required under Florida's Workers' Compensation law.
- e. If the Recipient elects to self-perform the Project, and such self-performance is approved by the Department in accordance with the terms of this Agreement, the Recipient may self-insure and proof of self-insurance shall be provided to the Department. If the Recipient elects to hire a contractor or consultant to perform the Project, then the Recipient shall, or cause its contractor or consultant to carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. Recipient shall, or cause its contractor to cause the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Recipient is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.
- f. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, the Recipient shall, or cause its contractor to, in addition to the insurance coverage required above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than \$6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to the paragraph above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein

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shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.

- g. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

15. Miscellaneous:

- a. In no event shall any payment to the Recipient constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Recipient and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- b. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- c. The Recipient and the Department agree that the Recipient, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.
- d. By execution of the Agreement, the Recipient represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- e. Nothing in the Agreement shall require the Recipient to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Recipient will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Recipient to the end that the Recipient may proceed as soon as possible with the Project.
- f. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- g. The Department reserves the right to unilaterally terminate this Agreement for failure by the Recipient to comply with the provisions of Chapter 119, Florida Statutes.
- h. The Recipient agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.
- i. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Recipient agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.
- j. This Agreement does not involve the purchase of Tangible Personal Property, as defined in Chapter 273, Florida Statutes.

16. Exhibits.

- a. **Exhibits A, B, D, F, and J** are attached to and incorporated into this Agreement.
- b. ☒ The Project will involve construction, therefore, **Exhibit "C"**, Engineer's Certification of Compliance is attached and incorporated into this Agreement.

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- c. ☐ Alternative Advance Payment Financial Provisions are used on this Project. If an Alternative Pay Method is used on this Project, then **Exhibit "H"**, Alternative Advance Payment Financial Provisions, is attached and incorporated into this Agreement.
- d. ☐ This Project utilizes Advance Project Reimbursement. If this Project utilizes Advance Project Reimbursement, then **Exhibit "K"**, Advance Project Reimbursement is attached and incorporated into this Agreement.
- e. ☐ A portion or all of the Project will utilize the Department's right-of-way and, therefore, **Exhibit O, Terms and Conditions of Construction in Department Right-of-Way**, is attached and incorporated into this Agreement.
- f. ☐ The following Exhibit(s), in addition to those listed in 16.a. through 16.f., are attached and incorporated into this Agreement: _____

g. Exhibit and Attachment List

Exhibit A: Project Description and Responsibilities

Exhibit B: Schedule of Financial Assistance

*Exhibit C: Engineer's Certification of Compliance

Exhibit D: Recipient Resolution

Exhibit F: Contract Payment Requirements

*Exhibit H: Alternative Advance Payment Financial Provisions

Exhibit J: State Financial Assistance (Florida Single Audit Act)

*Exhibit K: Advance Project Reimbursement

*Exhibit O: Terms and Conditions of Construction in Department Right-of-Way

*Additional Exhibit(s): _____

*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

The remainder of this page intentionally left blank.

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IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written above.

RECIPIENT City of Avon Park

STATE OF FLORIDA,
DEPARTMENT OF TRANSPORTATION

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Legal Review:

By: _____
Name: _____

DS
DC

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
STATE-FUNDED GRANT AGREEMENT**EXHIBIT A****PROJECT DESCRIPTION AND RESPONSIBILITIES**FPN: 449669-1-54-01

This exhibit forms an integral part of the Agreement between the State of Florida, Department of Transportation and
City of Avon Park (the Recipient)

PROJECT LOCATION:

- ☐ The project is on the National Highway System.
- ☐ The project is on the State Highway System.

PROJECT LENGTH AND MILE POST LIMITS: 630 feet**PROJECT DESCRIPTION:** Fred Conner Street from South Carolina Avenue to Memorial Drive

The purpose of this Exhibit is to describe the scope of work and the responsibilities of the City of Avon Park in connection with the design, construction, and CEI for the resurfacing of Fred Conner Street from South Carolina Avenue to Memorial Drive, approximately 630 feet. Associated safety and drainage improvements will also be addressed, as appropriate. The general objective is for the City to provide contract administration, management services, construction engineering inspection services, and quality acceptance reviews of all work associated with the development and preparation of the contract plans and construction of the resurfacing and associated improvements.

Specifically and non inclusive the following are included in the Scope of Services:

1. Milling and Resurfacing or Overlaying the existing travel lanes according to County specifications.
3. Construct or Reconstruct, as appropriate, sideroad and driveway turnouts.
4. Maintain and/or upgrade the safety of the project by protecting roadside hazards when appropriate.
5. Obtain a minimum pavement design, for resurfacing design, include minimum milling depth.
6. Provide for the preparation of the Roadway plans package. This work effort includes roadway design and drainage analysis needed to prepare a complete set of Roadway Plans, Traffic control plans, environmental permits and other necessary documents.
7. Coordination with utility owners during design and construction will be required to determine and avoid potential impacts. where unavoidable, disposition of utility conflicts should be coordinated.
8. A Professional Engineer, registered in the State of Florida in the responsible charge of the projects design shall professionally endorse (sign, seal, certify) the record plans, the special provisions and all reference and support documents.
9. Assure all surveying and mapping products and services comply with pertinent Florida Statutes and the Florida Administrative Code.
10. Identifying and obtaining any geotechnical investigation, analysis, and design dictated by the project needs.
11. Acquisition of all applicable stormwater and environmental permits in accordance with Chapter 62-25, Regulation of Storm water Discharge, Florida Administrative Code; Chapter 373 and 403, Florida Statutes; Chapters 40 and 62, Florida Administrative Code; Rivers and Harbors Act of 1899; Section 404 of the Clean Water Act; and parts 114 and 115, Title 33, Code of Federal Regulations. In addition, permitting required by local agencies shall be prepared in accordance with their specific regulations. Acquisition includes all associated permit fees.
12. Coordinate construction activities with other construction projects that are impacted by or impact this project. This includes projects under the jurisdiction of local governments or other regional and state agencies.
13. Provide, upon completion of construction, Final As-built Construction Plans, signed and sealed by a Professional

Engineer, registered in the State of Florida.

SPECIAL CONSIDERATIONS BY RECIPIENT:

The Recipient is required to provide a copy of the design plans for the Department's review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

The Recipient shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

- a) Design to be completed by December 31, 2024 .
- c) Right-of-Way requirements identified and provided to the Department by December 31, 2024.
- d) Right-of-Way to be certified by December 31, 2024.
- e) Construction contract to be let by December 31, 2025.
- f) Construction to be completed by December 31, 2027.

If this schedule cannot be met, the Recipient will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of funding.

SPECIAL CONSIDERATIONS BY DEPARTMENT:

Upon receipt of an invoice, the Department will have twenty, (20) working days to review and approve the goods and services submitted for payment.

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STATE-FUNDED GRANT AGREEMENT

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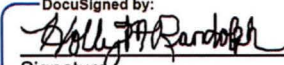
EXHIBIT B
SCHEDULE OF FINANCIAL ASSISTANCE

RECIPIENT NAME & BILLING ADDRESS: City of Avon Park 110 E. Main Street Avon Park, FL 33825		FINANCIAL PROJECT NUMBER: 449669-1-54-01			
PHASE OF WORK by Fiscal Year:		MAXIMUM PARTICIPATION			Indicate source of Local funds
		(1) TOTAL PROJECT FUNDS	(2) LOCAL FUNDS	(3) STATE FUNDS	
Design- Phase 34	Maximum Department Participation (Insert Program Name)	\$	\$	\$	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
FY:	Maximum Department Participation (Insert Program Name)	\$	\$	\$	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
Total Design Cost		\$ 0.00 %	\$ 0.00 %	\$ 0.00 %	
Right-of-Way- Phase 44	Maximum Department Participation (Insert Program Name)	\$	\$	\$	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
FY:	Maximum Department Participation (Insert Program Name)	\$	\$	\$	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
Total Right-of-Way Cost		\$ 0.00 %	\$ 0.00 %	\$ 0.00 %	
Construction- Phase 54	Maximum Department Participation (SCRC)	\$69,196.00	\$	\$69,196.00	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
FY:	Maximum Department Participation (Insert Program Name)	\$	\$	\$	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
Total Construction Cost		\$69,196.00 %	\$ 0.00 %	\$69,196.00 %	
Construction Engineering and Inspection - Phase 64	Maximum Department Participation (Insert Program Name)	\$	\$	\$	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
FY:	Maximum Department Participation (Insert Program Name)	\$	\$	\$	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
Total Construction Engineering and Inspection Cost		\$ 0.00 %	\$ 0.00 %	\$ 0.00 %	
(Phase :)	Maximum Department Participation (Insert Program Name)	\$	\$	\$	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
FY:	Maximum Department Participation (Insert Program Name)	\$	\$	\$	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
Total Cost		\$ 0.00 %	\$ 0.00 %	\$ 0.00 %	
TOTAL COST OF THE PROJECT		\$69,196.00	\$ 0.00	\$69,196.00	

COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:

I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, F.S. Documentation is on file evidencing the methodology used and the conclusions reached.

Holly Randolph
 District Grant Manager Name

DocuSigned by:

 Signature

8/18/2022 | 4:24 PM EDT

Date

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
STATE-FUNDED GRANT AGREEMENT

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EXHIBIT C

ENGINEER'S CERTIFICATION OF COMPLIANCE

Engineer's Certification of Compliance. The Recipient shall complete and submit the following Notice of Completion and, if applicable, Engineer's Certification of Compliance to the Department upon completion of the construction phase of the Project.

NOTICE OF COMPLETION

STATE-FUNDED GRANT AGREEMENT
Between
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
and City of Avon Park

PROJECT DESCRIPTION: Avon Park Road Assistance

FPID#: 449669-1-54-01

In accordance with the Terms and Conditions of the State-Funded Grant Agreement, the undersigned provides notification that the work authorized by this Agreement is complete as of _____, 20__.

By: _____

Name: _____

Title: _____

ENGINEER'S CERTIFICATION OF COMPLIANCE

In accordance with the Terms and Conditions of the State-Funded Grant Agreement, the undersigned certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification the Recipient shall furnish the Department a set of "as-built" plans certified by the Engineer of Record/CEI.

By: _____ P.E.

SEAL:

Name: _____

Date: _____

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
STATE-FUNDED GRANT AGREEMENT

EXHIBIT D

RECIPIENT RESOLUTION

The Recipient's Resolution authorizing entry into this Agreement is attached and incorporated into this Agreement.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
STATE-FUNDED GRANT AGREEMENT**EXHIBIT F****CONTRACT PAYMENT REQUIREMENTS****Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts**

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

Salaries: Timesheets that support the hours worked on the project or activity must be kept. A payroll register, or similar documentation should be maintained. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

Fringe benefits: Fringe benefits should be supported by invoices showing the amount paid on behalf of the employee, e.g., insurance premiums paid. If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown. Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

Travel: Reimbursement for travel must be in accordance with s. 112.061, F.S., which includes submission of the claim on the approved state travel voucher along with supporting receipts and invoices.

Other direct costs: Reimbursement will be made based on paid invoices/receipts and proof of payment processing (cancelled/processed checks and bank statements). If nonexpendable property is purchased using state funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with DMS Rule 60A-1.017, F.A.C., regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in s. 273.02, F.S., for subsequent transfer to the State.

Indirect costs: If the contract stipulates that indirect costs will be paid based on a specified rate, then the calculation should be shown. Indirect costs must be in the approved agreement budget and the entity must be able to demonstrate that the costs are not duplicated elsewhere as direct costs. All indirect cost rates must be evaluated for reasonableness and for allowability and must be allocated consistently.

Contracts between state agencies may submit alternative documentation to substantiate the reimbursement request, which may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address <https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
STATE-FUNDED GRANT AGREEMENT

EXHIBIT J

STATE FINANCIAL ASSISTANCE (FLORIDA SINGLE AUDIT ACT)

THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Awarding Agency: Florida Department of Transportation

State Project Title and CSFA Number:

- ☐ County Incentive Grant Program (CIGP), (CSFA 55.008)
- ☒ Small County Outreach Program (SCOP), (CSFA 55.009)
- ☐ Small County Road Assistance Program (SCRAP), (CSFA 55.016)
- ☐ Transportation Regional Incentive Program (TRIP), (CSFA 55.026)
- ☐ Insert Program Name, Insert CSFA Number

***Award Amount:** \$69,196.00

*The state award amount may change with supplemental agreements

Specific project information for CSFA Number is provided at: <https://apps.fldfs.com/fsaa/searchCatalog.aspx>

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:

State Project Compliance Requirements for CSFA Number are provided at:
<https://apps.fldfs.com/fsaa/searchCompliance.aspx>

The State Projects Compliance Supplement is provided at: <https://apps.fldfs.com/fsaa/compliance.aspx>

EXHIBIT D

RESOLUTION 2022-22

A RESOLUTION OF THE CITY COUNCIL OF AVON PARK, FLORIDA PROVIDING FOR APPROVAL OF GRANT AGREEMENT AND SPECIFIC MAINTENANCE REQUIREMENTS; AUTHORIZING SIGNATURE BY MAYOR OR DEPUTY MAYOR; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has applied for and has been awarded a Florida Department of Transportation (“Department”) grant for the design, construction, and CEI for the resurfacing of Fred Conner Street from South Carolina Avenue to Memorial Drive, as further described in Exhibit “A”, Project Description and Responsibilities (“Project”), attached to and incorporated into the State-Funded Grant Agreement (“Agreement”); and, **WHEREAS**, the Agree requires this Resolution as Exhibit “D” to the Agreement, providing the authority and covenants herein; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF AVON PARK, FLORIDA, in a public meeting assembled this **12th day of September 2022**.

1. The City agrees to maintain any portion of the Project not located on the State Highway System constructed under this Agreement for its useful life.
2. If the City constructs any improvement on Department right-of-way, the City shall maintain the improvements located on the Department right-of-way made for their useful life.
3. If the City is required to maintain Project improvements located on the Department right-of-way beyond final acceptance, then City shall, prior to any disbursement of the State funding provided under the Agreement, also execute a Maintenance Memorandum of Agreement in a form that is acceptable to the Department.
4. The Mayor (or in his absence, Deputy Mayor) is hereby authorized to execute all documents provided by the City’s legal counsel to finalize the transfer.

IN WITNESS WHEREOF, the City of Avon Park, Florida, has duly adopted this Resolution and caused it to be executed by the officers below on this this **12th day of September 2022**. The

vote was:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilperson/Mayor Anderson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson /Dep.Mayor Barnard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson Taylor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson McGuire	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson Mercure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(Seal)

ATTEST:

CITY OF AVON PARK, FLORIDA

By: _____
Christian Hardman, City Clerk

By: _____
Garrett Anderson, Mayor

APPROVED AS TO FORM:

Gerald Buhr, City Attorney

Agenda Item Summary

Date of Action: September 12, 2022

Subject: Resolution No. 2022-23, Adopting Lien Reduction with Council Hearing

Item No.: D-13

Placed on Agenda by: City Attorney, Jerry Buhr

Staff Review: Yes

Attorney Review: Yes

Recommended Motion(s): Approve

Documentation:

- Resolution No. 2022-23

Background: See Draft Minutes, August 29, 2022, City Council Regular Meeting.

RESOLUTION 2022-23

A RESOLUTION OF THE CITY COUNCIL OF AVON PARK, FLORIDA AMENDING THE LIEN REDUCTION POLICIES AND PROCEDURES TO INCLUDE CLARIFYING THAT ALL HARD COSTS ARE NOT PART OF LIEN REDUCTION POLICY; AND PROVIDING FOR THE CITY COUNCIL TO HEAR LARGE CODE ENFORCEMENT LIEN REDUCTION REQUESTS FOR FINDING OF FACT REGARDLESS OF WHETHER THE SPECIAL MAGISTRATE IS AVAILABLE, PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council has the authority to accept or reject requests for code enforcement lien reductions or forgiveness; and,

WHEREAS, in order to minimize or avoid disparate treatment of code violators with different factual situations in each case, the City Council previously established policies and procedures for lien reductions including criteria to consider when reviewing such requests will provide a fairer basis for considering each case on its own merits; and,

WHEREAS, the Council has determined that hard costs to the City due to the violation should not be reduced as part of the lien reduction policy; and,

WHEREAS, code violators seeking substantial reductions are required to make their argument based on the merits of their case through sworn testimony before the City's special magistrate, however, at the City Manager's option, this amended policy allows the city council to review evidence and hear testimony on such cases, regardless of the magistrate's availability; and,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF AVON PARK, FLORIDA, in a public meeting assembled this 12th day of September, 2022.

SECTION 1. CODE ENFORCEMENT LIEN REDUCTION POLICY ADOPTED.

1. The City Council hereby adopts the First Amendment to the Code Enforcement Lien Reduction Policy attached as Exhibit 1 hereto.
2. The City Council delegates authority to the City Manager to call such lien reduction hearings of the city council, subject to the city council rejecting holding the hearing until a special magistrate is available or move such hearings to another city council meeting

date.

SECTION 2. EFFECTIVE DATE. This Resolution shall take effect immediately upon adoption.

IN WITNESS WHEREOF, the City of Avon Park, Florida, has duly adopted this Resolution and caused it to be executed by the officers below. The vote was:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilperson/Mayor Anderson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson /Dep.Mayor Barnard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson Taylor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson McGuire	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson Mercure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(Seal)

ATTEST:

CITY OF AVON PARK, FLORIDA

By: _____

Christian Hardman, City Clerk

By: _____

Garrett Anderson, Mayor

**APPROVED AS TO FORM AND
SUBSTANCE:**

Gerald Buhr, City Attorney

THIRD AMENDMENT OF THE
POLICIES AND PROCEDURES FOR CONSIDERING CODE ENFORCEMENT LIEN REDUCTIONS

REMOVAL OF HARD COSTS FROM LIEN REDUCTION, ETC

1. Applications for lien reduction below 30% must be on City Form and accompanied by a fee of \$25 for City Manager approved reduction. For lien reductions sought in excess of 30%, violator required to pay \$25 application fee, plus a deposit of \$300 for special magistrate hearing or Council hearing. Additionally, all enforcement costs shall be paid by the violator as a prerequisite to consideration of a reduction in the lien.
2. All hard costs of the City shall not be part of any lien reduction. "Hard costs" mean those costs of the City due to the violation that come out of the City funds or are funded to the City by the Community Redevelopment District ("CRA"), and include, without limitation, mowing and clearing, demolition and related expenses, labor, and vehicle costs.
3. All violations on all properties owned by Violator shall have been in continuous compliance for at least three (3) months.
4. Any lien resulting from a fine for a violation that was determined to be irreparable or irreversible, as outlined under Chapter 162, Florida Statutes will not be considered for reduction.
5. If the Applicant purchased the property without performing a title search or missed the City's lien in the chain of title due to the fault of the Applicant or Applicant's agents, employees or others, no adjustment shall be made in excess of 50%, and any adjustments up to 50% shall be made based on the amount and value of work performed by the Applicant to place the property back on tax rolls and be a benefit to the neighborhood, as provided in Matrix.
6. New owners who are family members (as defined by §112.3135 FS) shall not be eligible for lien reduction.
7. If a title insurance policy is issued upon the purchase of the property and the title insurance policy failed to identify or consider the lien, a lien reduction shall not be granted. In such cases, the lien should have been discovered by the title insurer and providing a reduction would place the County in the position of indemnifying the title insurer against its losses, which losses should be reflected in premium charges.
8. New owners shall be required to testify under oath that the violator is receiving no benefit from the lien reduction.
9. If violations were caused due to negligence or wrongful acts of an agent of property owner (rental realtor, etc.) and have existed on the property for more than three (3) months, a lien reduction shall not be granted. In such cases, the violation should have been discovered and been corrected by the property owner within a reasonable time, and damages may be sought against the agent.
10. Violations that are of a magnitude that they create community harm for more than twelve months will not be considered for reduction.
11. All reductions sought for more than 30% shall be by quasi-judicial hearing with sworn testimony before the Special Magistrate or City Council, with the Magistrate making a recommendation to the Council. The cost of the special magistrate lien settlement hearing shall be secured by violator by deposit and tried up after the hearing(s) by either refund by City or additional payment to violator. The procedures shall be as provided by resolution of the Council. In the event that a special magistrate is not available the City Council may choose, in its sole discretion, to hear pending cases until a special magistrate is available, but in such event, shall use these Policies and

Procedures and Matrices and require all necessary evidence and sworn testimony necessary to make sufficient findings of fact.

12. Any lien reduction will be subject to full and timely payment of the remaining lien and hard costs. For amounts less than \$1,000, such payment must be made within five (5) working days of the lien reduction hearing. For all other payments, if the Applicant still owns the property, the Applicant may request a payment plan. If the Applicant no longer owns the property, the Applicant must pay all liens and costs within ninety (90) days.
13. These policies and procedures are an attempt to settle code enforcement liens. No person is entitled to settlement under these Policies and Procedures. Violator shall sign an agreement stating that if court litigation has been undertaken by Violator to oppose a code enforcement violation, penalty, lien or the decision on an application for lien reduction under these policies and procedures, a lien reduction shall not be granted under these Policies, and if the City Council agrees, the Violator and City may enter into a contract providing that the prevailing party in future litigation (including without limitation foreclosure of lien) on any of the violations shall be entitled to attorney fees.

MATRICES FOR EVALUATING LIEN REDUCTION REQUESTS BY OWNERS THAT WERE THE VIOLATORS

POTENTIAL AMOUNT OF LIEN REDUCTION ¹

H A R M T O C O M M U N I T Y	EXTENT OF DEVIATION FROM THE REQUIREMENT			
		MAJOR	MODERATE	MINOR
	MAJOR	0%-5%	5%-10%	10% - 20%
	MODERATE	5%-15%	15%-25%	25%-40%
	MINOR	15%-40%	40%-80%	80%-90%

1. Percent range shows allowable reduction **after deduction of all outstanding costs of code enforcement and other City liens or debts**, whether code enforcement, utilities, etc.

CHARACTERIZATION OF THE VIOLATIONS (EXAMPLES)

A. AMOUNT OF TIME THE VIOLATION EXISTED BEFORE COMPLIANCE

MATRIX FACTOR	EXTENT OF DEVIATION	HARM TO THE COMMUNITY
---------------	---------------------	-----------------------

MAJOR	Violation corrected between 6 months and 12 months of required compliance date.	The violation(s) were so substantial as to have a potential impact on sale of neighboring homes and created a potential for rats and other vectors.
MODERATE	Violation corrected between 3 months and 6 months of required compliance date.	The violation(s) were so substantial as to have a potential impact on sale of neighboring homes but did not create a potential for rats and other vectors.
MINOR	Violation corrected within 1 month of required compliance date.	Violation created a risk of lowering property values.

B. NUMBER OF VIOLATIONS AT SAME OR OTHER PROPERTIES IN CITY

MATRIX FACTOR	EXTENT OF DEVIATION	HARM TO THE COMMUNITY
MAJOR	Property has had more than 2 previous violations or Violator owns 2 or more other properties, a majority of which also have had violations within five years.	The other violation(s) were so substantial as to have a potential impact on sale of neighboring homes and created a potential for rats and other vectors.
MODERATE	Violation corrected between 3 months and 6 months of initial notice.	The violation(s) were so substantial as to have a potential impact on sale of neighboring homes but did not create a potential for rats and other vectors.
MINOR	Violation corrected within 3 months of initial notice.	Violation created a risk of lowering property values.

A. ZONING OR BUILDING CODE VIOLATIONS

MATRIX FACTOR	EXTENT OF DEVIATION	HARM TO THE COMMUNITY
MAJOR	Failed to request either land use approvals or building permit.	Project is dangerous as constructed (or partially constructed) and is otherwise a community eyesore because of the violation(s).
MODERATE	Request govt approval of land use but did not construct with valid building permit; or vice versa.	Project is not dangerous but is a community eyesore, and no after-the-fact permit or variance could be issued because violation is non-remediable.
MINOR	Had valid building permit, but not proper land use requirements.	Not dangerous or eyesore and could potentially be permitted with after-the-fact permit(s).

B. AMELIORATING CIRCUMSTANCES SUGGESTING REDUCTION IN PENALTY PERCENTAGE

1. Violator verifiably hospitalized or non-ambulatory for extensive portion of code violation term and lacked assistance from nearby family members. Reduction of between. *Add 30-70% to lien percent calculated from matrix.*

C. AGGRAVATING CIRCUMSTANCES SUGGESTING INCREASE IN SETTLEMENT PENALTY PERCENTAGE

1. Violator has had more than five (5) violations in the past ten years combined on property(ies) owned within the City, or less than five (5) violations that have remained on properties owned in the City for a combined term in excess of 18 months. *Deduct 10% from lien percent calculated from matrix.*
2. Violator has demonstrated a lack effort to comply with City requirements or has otherwise treated City code enforcement or code enforcement officers with disrespect or disdain. *Deduct 30-70% from lien percent calculated from matrix.*

**MATRICES FOR EVALUATING LIEN REDUCTION REQUESTS BY OWNERS
THAT WERE NOT THE VIOLATORS**

VALUE OF NEW OWNER'S OWNERSHIP, WORK, AND IMPROVEMENTS

E F F O R T S O F N E W O W N E R	EXTENT OF VALUE TO NEIGHBORHOOD AND COMMUNITY			
		MAJOR	MODERATE	MINOR
	MAJOR	45-50%	30-45%	20-30%
	MODERATE	35-40%	25-30%	15-30%
	MINOR	25-35%	20-25%	10-30%

MATRIX FACTOR	VALUE TO COMMUNITY	EFFORTS
MAJOR	Owner acquired property at tax sale and improvements done by owner since purchase have caused	Owner corrected code violations within ten (10) days of quiring the property, and then continued to improve home substantially

	property to exceed other similar homes or properties in neighborhood.	such that it is no longer a blight on the on the property values in the neighborhood or community.
MODERATE	Owner acquired property at tax sale or foreclosure sale and improvements done by owner since purchase have caused property to equal or nearly equal other similar homes or properties in neighborhood.	Owner corrected code violations within ninety (90) days of acquiring the property, and delay was due to extent or complexity of remedial actions, and then continued to improve home such that it is less of a blight on the property values in the neighborhood or community.
MINOR	Owner purchased property from previous owner-violator to fix it up and live in it or sell it and has only corrected the outstanding violations.	Owner corrected code violations only to apply for lien reduction.

**AMELIORATING OR AGGRAVATING CIRCUMSTANCES SUGGESTING
INCREASE IN PENALTY REDUCTION FOR NEW OWNERS.**

1. If new owner is willing to sign agreement to make substantial improvements to the property, then increase percent reduction of penalty based on how much the improvements will cost (not necessarily dollar-for-dollar), and how much the improvements will benefit the neighborhood and community in general.
2. New owner has purchased property that has languished off the tax records for a period of years, or has been a long-time blight on the neighborhood, and has revived it sufficiently to justify a further increase in the penalty reduction percent.
3. Any amount paid to the previous owner-violator by the new owner (but not family, *see*, above) to acquire the property may be used as a reduction to the dollar amount of the lien reduction produced by the matrices.

Agenda Item Summary

Date of Action: September 12, 2022

Subject: FAA Apron Rehabilitation Construction Grant

Item No.: D-14

Placed on Agenda by: Finance Director, Melody Sauerhafer

Staff Review: Yes

Attorney Review:

Recommended Motion(s): Approve Acceptance of the FAA Terminal Apron Rehabilitation Grant and Authorize the Mayor to Electronically Sign.

Documentation:

- Grant Agreement 3-12-0004-024-2022

Background: The grant funds will be used for full-depth pavement reconstruction, and asphalt pavement rejuvenation to the northern terminal area apron west of Taxiway "F" and north to Runway 10-28.

Based on data from the 2021 FDOT Statewide Airfield Pavement Management Program report for AVO - large portions of the apron pavements have deteriorated to a point where rehabilitation is no longer feasible. New pavement is to be installed in this project.

Total Project Cost: \$2,673,740

- FAA \$2,406,366 (Grant Amount)
- FDOT \$267,374



U.S. Department
of Transportation
Federal Aviation
Administration

Orlando Airports District
Office:
8427 South Park Circle, Suite
524
Orlando, FL 32819

{{DateTime_es_:signer1:calc(now()):format(date," mmmm d, yyyy")}}

Mr. Garrett Anderson
City of Avon Park
110 E. Main Street
Avon Park, FL 33825

Dear Mr. Anderson:

The Grant Offer for Airport Improvement Program (AIP) Project No. 3-12-0004-024-2022 at Avon Park Exec Airport is attached for execution. This letter outlines the steps you must take to properly enter into this agreement and provides other useful information. Please read the conditions, special conditions, and assurances that comprise the grant offer carefully.

You may not make any modification to the text, terms or conditions of the grant offer.

Steps You Must Take to Enter Into Agreement.

To properly enter into this agreement, you must do the following:

1. The governing body must give authority to execute the grant to the individual(s) signing the grant, i.e., the person signing the document must be the sponsor's authorized representative(s) (hereinafter "authorized representative").
2. The authorized representative must execute the grant by adding their electronic signature to the appropriate certificate at the end of the agreement.
3. Once the authorized representative has electronically signed the grant, the sponsor's attorney(s) will automatically receive an email notification.
4. On the **same day or after** the authorized representative has signed the grant, the sponsor's attorney(s) will add their electronic signature to the appropriate certificate at the end of the agreement.
5. If there are co-sponsors, the authorized representative(s) and sponsor's attorney(s) must follow the above procedures to fully execute the grant and finalize the process. Signatures must be obtained and finalized no later than **September 15, 2022**.
6. The fully executed grant will then be automatically sent to all parties as an email attachment.

Payment. Subject to the requirements in 2 CFR § 200.305 (Federal Payment), each payment request for reimbursement under this grant must be made electronically via the Delphi eInvoicing System. Please see the attached Grant Agreement for more information regarding the use of this System.

Project Timing. The terms and conditions of this agreement require you to complete the project without undue delay and no later than the Period of Performance end date (1,460 days from the grant execution

date). We will be monitoring your progress to ensure proper stewardship of these Federal funds. We expect you to submit payment requests for reimbursement of allowable incurred project expenses consistent with project progress. Your grant may be placed in “inactive” status if you do not make draws on a regular basis, which will affect your ability to receive future grant offers. Costs incurred after the Period of Performance ends are generally not allowable and will be rejected unless authorized by the FAA in advance.

Reporting. Until the grant is completed and closed, you are responsible for submitting formal reports as follows:

- For all grants, you must submit by December 31st of each year this grant is open:
 1. A signed/dated SF-270 (Request for Advance or Reimbursement for non-construction projects) or SF-271 or equivalent (Outlay Report and Request for Reimbursement for Construction Programs), and
 2. An SF-425 (Federal Financial Report).
- For non-construction projects, you must submit [FAA Form 5100-140, Performance Report](#) within 30 days of the end of the Federal fiscal year.
- For construction projects, you must submit [FAA Form 5370-1, Construction Progress and Inspection Report](#), within 30 days of the end of each Federal fiscal quarter.

Audit Requirements. As a condition of receiving Federal assistance under this award, you must comply with audit requirements as established under 2 CFR part 200. Subpart F requires non-Federal entities that expend \$750,000 or more in Federal awards to conduct a single or program specific audit for that year. Note that this includes Federal expenditures made under other Federal-assistance programs. Please take appropriate and necessary action to ensure your organization will comply with applicable audit requirements and standards.

Closeout. Once the project(s) is completed and all costs are determined, we ask that you work with your FAA contact indicated below to close the project without delay and submit the necessary final closeout documentation as required by your Region/Airports District Office.

FAA Contact Information. Miguel Martinez, (407) 487-7235, miguel.martinez@faa.gov is the assigned program manager for this grant and is readily available to assist you and your designated representative with the requirements stated herein.

We sincerely value your cooperation in these efforts and look forward to working with you to complete this important project.

Sincerely,

{{Sig_es_:signer1: signature}}

Bart Vernace, P.E.
Manager



U.S. Department
of Transportation
Federal Aviation
Administration

FAA Airport Improvement Program (AIP)

GRANT AGREEMENT

Part I - Offer

Federal Award Offer Date	<code>{{DateTime_es_:_signer1:calc(now()):format(date," mmmm d, yyyy")}}</code>
Airport/Planning Area	Avon Park Exec Airport
FY2022 AIP Grant Number	3-12-0004-024-2022
Unique Entity Identifier	YX6KHX6NTSC5
TO:	City of Avon Park
	(herein called the "Sponsor")

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated May 31, 2022, for a grant of Federal funds for a project at or associated with the Avon Park Exec Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Avon Park Exec Airport (herein called the "Project") consisting of the following:

Terminal Apron Rehabilitation

which is more fully described in the Project Application.

NOW THEREFORE, Pursuant to and for the purpose of carrying out the Title 49, United States Code (U.S.C.), Chapters 471 and 475; 49 U.S.C. §§ 40101 et seq., and 48103; FAA Reauthorization Act of 2018 (Public Law Number 115-254); the Department of Transportation Appropriations Act, 2021 (Public Law 116-260, Division L); the Consolidated Appropriations Act, 2022 (Public Law 117-103); and the representations contained in the Project Application; and in consideration of: (a) the Sponsor's adoption and ratification of the Grant Assurances attached hereto; (b) the Sponsor's acceptance of this Offer; and (c) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurance and conditions as herein provided;

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay ninety (90) percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.

Assistance Listings Number (Formerly CFDA Number): 20.106

This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$2,406,366.

The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):

\$ 0 for planning

\$ 2,406,366 airport development or noise program implementation; and,

\$ 0 for land acquisition.

The source of this Grant includes funding from the Small Airport Fund, in accordance with 49 U.S.C. § 47116.

2. **Grant Performance.** This Grant Agreement is subject to the following Federal award requirements:
 - a. Period of Performance:
 1. Shall start on the date the Sponsor formally accepts this Agreement and is the date signed by the last Sponsor signatory to the Agreement. The end date of the Period of Performance is 4 years (1,460 calendar days) from the date of acceptance. The Period of Performance end date shall not affect, relieve, or reduce Sponsor obligations and assurances that extend beyond the closeout of this Grant Agreement.
 2. Means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions or budget periods. (2 Code of Federal Regulations (CFR) § 200.1).
 - b. Budget Period:
 1. For this Grant is 4 years (1,460 calendar days) and follows the same start and end date as the period of performance provided in paragraph (2)(a)(1). Pursuant to 2 CFR § 200.403(h), the Sponsor may charge to the Grant only allowable costs incurred during the Budget Period.
 2. Means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which the Sponsor is authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to 2 CFR § 200.308.
 - c. Close Out and Termination
 1. Unless the FAA authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later than 120 calendar days after the end date of the period of performance. If the Sponsor does not submit all required closeout documentation within this time period, the FAA will

proceed to close out the grant within one year of the period of performance end date with the information available at the end of 120 days. (2 CFR § 200.344).

2. The FAA may terminate this Grant, in whole or in part, in accordance with the conditions set forth in 2 CFR § 200.340, or other Federal regulatory or statutory authorities as applicable.
3. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
4. **Indirect Costs - Sponsor.** The Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the project application as accepted by the FAA, to allowable costs for Sponsor direct salaries and wages.
5. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with 49 U.S.C. § 47109, the regulations, policies, and procedures of the Secretary of Transportation ("Secretary"), and any superseding legislation. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
6. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this Agreement, 49 U.S.C. Chapters 471 and 475, and the regulations, and the Secretary's policies and procedures. Per 2 CFR § 200.308, the Sponsor agrees to report and request prior FAA approval for any disengagement from performing the project that exceeds three months or a 25 percent reduction in time devoted to the project. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the grant assurances, which are part of this Agreement.
7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before September 15, 2022, or such subsequent date as may be prescribed in writing by the FAA.
9. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner for any project upon which Federal funds have been expended. For the purposes of this Grant Agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor, that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.
10. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this Grant Agreement.

11. System for Award Management (SAM) Registration and Unique Entity Identifier (UEI).

- a. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR § 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this Grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).
- b. Unique entity identifier (UEI) means a 12-character alpha-numeric value used to identify a specific commercial, nonprofit or governmental entity. A UEI may be obtained from SAM.gov at <https://sam.gov/content/entity-registration>.

12. Electronic Grant Payment(s). Unless otherwise directed by the FAA, the Sponsor must make each payment request under this Agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.

13. Informal Letter Amendment of AIP Projects. If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.

The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA's authority to increase the maximum obligation does not apply to the "planning" component of Condition No. 1, Maximum Obligation.

The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.

An informal letter amendment has the same force and effect as a formal grant amendment.

14. Air and Water Quality. The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this Grant Agreement.

15. Financial Reporting and Payment Requirements. The Sponsor will comply with all Federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.

16. Buy American. Unless otherwise approved in advance by the FAA, in accordance with 49 U.S.C. § 50101, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for which funds are provided under this grant. The Sponsor will include a provision implementing Buy American in every contract and subcontract awarded under this Grant.

17. Build America, Buy America. The sponsor must comply with the requirements under the Build America, Buy America Act (Public Law 117-58).

18. **Maximum Obligation Increase.** In accordance with 49 U.S.C. § 47108(b)(3), as amended, the maximum obligation of the United States, as stated in Condition No. 1, Maximum Obligation, of this Grant Offer:
- a. May not be increased for a planning project;
 - b. May be increased by not more than 15 percent for development projects if funds are available;
 - c. May be increased by not more than the greater of the following for a land project, if funds are available:
 1. 15 percent; or
 2. 25 percent of the total increase in allowable project costs attributable to acquiring an interest in the land.

If the sponsor requests an increase, any eligible increase in funding will be subject to the United States Government share as provided in 49 U.S.C. § 47110, or other superseding legislation if applicable, for the fiscal year appropriation with which the increase is funded. The FAA is not responsible for the same Federal share provided herein for any amount increased over the initial grant amount. The FAA may adjust the Federal share as applicable through an informal letter of amendment.

19. **Audits for Sponsors.**

PUBLIC SPONSORS. The Sponsor must provide for a Single Audit or program-specific audit in accordance with 2 CFR Part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. Upon request of the FAA, the Sponsor shall provide one copy of the completed audit to the FAA. Sponsors that expend less than \$750,000 in Federal awards and are exempt from Federal audit requirements must make records available for review or audit by the appropriate Federal agency officials, State, and Government Accountability Office. The FAA and other appropriate Federal agencies may request additional information to meet all Federal audit requirements.

20. **Suspension or Debarment.** When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:

- a. Verify the non-Federal entity is eligible to participate in this Federal program by:
 1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if the non-Federal entity is excluded or disqualified; or
 2. Collecting a certification statement from the non-Federal entity attesting they are not excluded or disqualified from participating; or
 3. Adding a clause or condition to covered transactions attesting the individual or firm are not excluded or disqualified from participating.
- b. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions (e.g., Sub-contracts).
- c. Immediately disclose in writing to the FAA whenever (1) the Sponsor learns they have entered into a covered transaction with an ineligible entity or (2) the Public Sponsor suspends or debars a contractor, person, or entity.

21. Ban on Texting While Driving.

- a. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
 - 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
 - 2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- b. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts, and subcontracts funded with this Grant.

22. Trafficking in Persons.

- a. You as the recipient, your employees, subrecipients under this Grant, and subrecipients' employees may not:
 - 1. Engage in severe forms of trafficking in persons during the period of time that the Grant and applicable conditions are in effect;
 - 2. Procure a commercial sex act during the period of time that the Grant and applicable conditions are in effect; or
 - 3. Use forced labor in the performance of the Grant or any subgrants under this Grant.
- b. We as the Federal awarding agency, may unilaterally terminate this Grant, without penalty, if you or a subrecipient that is a private entity:
 - 1. Is determined to have violated a prohibition in paragraph (a) of this condition; or
 - 2. Has an employee who is determined by the agency official authorized to terminate the Grant to have violated a prohibition in paragraph (a) of this Condition through conduct that is either –
 - a. Associated with performance under this Grant; or
 - b. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement), as implemented by our agency at 2 CFR Part 1200.
- c. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph (a) of this Condition.
- d. Our right to terminate unilaterally that is described in paragraph (a) of this Condition:
 - 1. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7104(g)), and

2. Is in addition to all other remedies for noncompliance that are available to us under this Grant Agreement.
23. **AIP Funded Work Included in a PFC Application.** Within 90 days of acceptance of this Grant Agreement, the Sponsor must submit to the FAA an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC project also covered under this Grant Agreement as described in the project application. The airport sponsor may not make any expenditure under this Grant Agreement until project work addressed under this Grant Agreement is removed from an approved PFC application by amendment.
24. **Exhibit "A" Property Map.** The Exhibit "A" Property Map dated August 31, 2022, is incorporated herein by reference or is submitted with the project application and made part of this Grant Agreement.
25. **Employee Protection from Reprisal.**
 - a. Prohibition of Reprisals
 1. In accordance with 41 U.S.C. § 4712, an employee of a Sponsor, grantee, subgrantee, contractor, or subcontractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph (a)(2) below, information that the employee reasonably believes is evidence of:
 - i. Gross mismanagement of a Federal grant;
 - ii. Gross waste of Federal funds;
 - iii. An abuse of authority relating to implementation or use of Federal funds;
 - iv. A substantial and specific danger to public health or safety; or
 - v. A violation of law, rule, or regulation related to a Federal grant.
 2. Persons and bodies covered. The persons and bodies to which a disclosure by an employee is covered are as follows:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Federal employee responsible for contract or grant oversight or management at the relevant agency;
 - v. A court or grand jury;
 - vi. A management official or other employee of the Sponsor, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct; or
 - vii. An authorized official of the Department of Justice or other law enforcement agency.
 3. Submission of Complaint. A person who believes that they have been subjected to a reprisal prohibited by paragraph (a) of this Condition may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.
 4. Time Limitation for Submittal of a Complaint. A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.
 5. Required Actions of the Inspector General. Actions, limitations, and exceptions of the Inspector General's office are established under 41 U.S.C. § 4712(b).

6. Assumption of Rights to Civil Remedy. Upon receipt of an explanation of a decision not to conduct or continue an investigation by the OIG, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c)(2).

SPECIAL CONDITIONS

26. **Pavement Maintenance Management Program.** The Sponsor agrees that it will implement an effective airport pavement maintenance management program as required by Airport Sponsor Grant Assurance 11, Pavement Preventive Maintenance-Management. The Sponsor agrees that it will use the program for the useful life of any pavement constructed, reconstructed, or repaired with Federal financial assistance at the airport. The Sponsor further agrees that the program will:
 - a. Follow the current version of FAA Advisory Circular 150/5380-6, "Guidelines and Procedures for Maintenance of Airport Pavements," for specific guidelines and procedures for maintaining airport pavements, establishing an effective maintenance program, specific types of distress and its probable cause, inspection guidelines, and recommended methods of repair;
 - b. Detail the procedures to be followed to assure that proper pavement maintenance, both preventive and repair, is performed;
 - c. Include a Pavement Inventory, Inspection Schedule, Record Keeping, Information Retrieval, and Reference, meeting the following requirements:
 1. Pavement Inventory. The following must be depicted in an appropriate form and level of detail:
 - a. Location of all runways, taxiways, and aprons;
 - b. Dimensions;
 - c. Type of pavement; and,
 - d. Year of construction or most recent major rehabilitation.
 2. Inspection Schedule.
 - a. Detailed Inspection. A detailed inspection must be performed at least once a year. If a history of recorded pavement deterioration is available, i.e., Pavement Condition Index (PCI) survey as set forth in the Advisory Circular 150/5380-6, the frequency of inspections may be extended to three years.
 - b. Drive-By Inspection. A drive-by inspection must be performed a minimum of once per month to detect unexpected changes in the pavement condition. For drive-by inspections, the date of inspection and any maintenance performed must be recorded.
 3. Record Keeping. Complete information on the findings of all detailed inspections and on the maintenance performed must be recorded and kept on file for a minimum of five years. The type of distress, location, and remedial action, scheduled or performed, must be documented. The minimum information is:
 - a. Inspection date;
 - b. Location;
 - c. Distress types; and
 - d. Maintenance scheduled or performed.

4. Information Retrieval System. The Sponsor must be able to retrieve the information and records produced by the pavement survey to provide a report to the FAA as may be required.

27. Project Containing Paving Work in Excess of \$500,000. The Sponsor agrees to:

- a. Furnish a construction management program to the FAA prior to the start of construction which details the measures and procedures to be used to comply with the quality control provisions of the construction contract, including, but not limited to, all quality control provisions and tests required by the Federal specifications. The program must include as a minimum:
 1. The name of the person representing the Sponsor who has overall responsibility for contract administration for the project and the authority to take necessary actions to comply with the contract;
 2. Names of testing laboratories and consulting engineer firms with quality control responsibilities on the project, together with a description of the services to be provided;
 3. Procedures for determining that the testing laboratories meet the requirements of the ASTM International standards on laboratory evaluation referenced in the contract specifications (i.e., ASTM D 3666, ASTM C 1077);
 4. Qualifications of engineering supervision and construction inspection personnel;
 5. A listing of all tests required by the contract specifications, including the type and frequency of tests to be taken, the method of sampling, the applicable test standard, and the acceptance criteria or tolerances permitted for each type of test; and
 6. Procedures for ensuring that the tests are taken in accordance with the program, that they are documented daily, and that the proper corrective actions, where necessary, are undertaken.
 7. Submit at completion of the project, a final test and quality assurance report documenting the summary results of all tests performed and highlighting those tests that indicated failure or that did not meet the applicable test standard. The report must include the pay reductions applied and the reasons for accepting any out-of-tolerance material. Submit interim test and quality assurance reports when requested by the FAA.
 - a. Failure to provide a complete report as described above, or failure to perform such tests, will, absent any compelling justification, result in a reduction in Federal participation for costs incurred in connection with construction of the applicable pavement. Such reduction will be at the discretion of the FAA and will be based on the type or types of required tests not performed or not documented and will be commensurate with the proportion of applicable pavement with respect to the total pavement constructed under the Grant Agreement.
 - b. The FAA, at its discretion, reserves the right to conduct independent tests and to reduce grant payments accordingly if such independent tests determine that sponsor test results are inaccurate.

28. Buy American Executive Orders. The Sponsor agrees to abide by applicable Executive Orders in effect at the time this Grant Agreement is executed, including Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the Grant Assurances, terms, and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.¹

**UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION**

{{Sig_es_:signer1:signature:dimension(height=12mm, width=70mm)}}

(Signature)

{{N_es_:signer1:fullname }}

(Typed Name)

{{*Ttl_es_:signer1:title }}

(Title of FAA Official)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the Grant Assurances, terms, and conditions in this Offer and in the Project Application.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.²

Dated {{DateTime_es_:signer2:calc(now()):format(date," mmmm d, yyyy")} }

City of Avon Park

(Name of Sponsor)

{{Sig_es_:signer2:signature:dimension(height=12mm, width=70mm)} }

(Signature of Sponsor's Authorized Official)

By: {{N_es_:signer2:fullname} }
(Typed Name of Sponsor's Authorized Official)

Title: {{*Ttl_es_:signer2:title} }
(Title of Sponsor's Authorized Official)

² Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

CERTIFICATE OF SPONSOR'S ATTORNEY

I, **{{N_es :signer3: fullname}}**, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Florida. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative, who has been duly authorized to execute this Grant Agreement, which is in all respects due and proper and in accordance with the laws of the said State; and Title 49, United States Code (U.S.C.), Chapters 471 and 475; 49 U.S.C. §§ 40101 et seq., and 48103; FAA Reauthorization Act of 2018 (Public Law Number 115-254); the Department of Transportation Appropriations Act, 2021 (Public Law 116-260, Division L); the Consolidated Appropriations Act, 2022 (Public Law 117-103); and the representations contained in the Project Application. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.³

Dated at **{{DateTime_es :signer3:calc(now()):format(date," mmmm d, yyyy")}}**

By: **{{Sig_es :signer3:signature:dimension(height=12mm, width=70mm)}}**

(Signature of Sponsor's Attorney)

³ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

ASSURANCES

AIRPORT SPONSORS

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this Grant Agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph (1) also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.**

Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25, 30, 32, 33, 34, and 37 in Section C apply to planning projects. The terms, conditions, and assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Grant including but not limited to the following:

FEDERAL LEGISLATION

- a. 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act, as amended — 40 U.S.C. §§ 3141-3144, 3146, and 3147, et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. § 201, et seq.
- d. Hatch Act – 5 U.S.C. § 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601, et seq.^{1, 2}
- f. National Historic Preservation Act of 1966 – Section 106 - 54 U.S.C. § 306108.1.¹
- g. Archeological and Historic Preservation Act of 1974 - 54 U.S.C. § 312501, et seq.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section § 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended - 42 U.S.C. § 7401, et seq.
- j. Coastal Zone Management Act, P.L. 92-583, as amended - 16 U.S.C. § 1451, et seq.
- k. Flood Disaster Protection Act of 1973 – Section 102(a) - 42 U.S.C. § 4012a.¹
- l. 49 U.S.C. § 303, (formerly known as Section 4(f)).
- m. Rehabilitation Act of 1973 - 29 U.S.C. § 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin).
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. § 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968, as amended - 42 U.S.C. § 4151, et seq.¹
- s. Powerplant and Industrial Fuel Use Act of 1978 – Section 403 - 42 U.S.C. § 8373.¹
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. § 3701, et seq.¹
- u. Copeland Anti-kickback Act - 18 U.S.C. § 874.¹
- v. National Environmental Policy Act of 1969 - 42 U.S.C. § 4321, et seq.¹
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271, et seq.
- x. Single Audit Act of 1984 - 31 U.S.C. § 7501, et seq.²
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. §§ 8101 through 8105.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (P.L. 109-282, as amended by section 6202 of P.L. 110-252).

- aa. Civil Rights Restoration Act of 1987, P.L. 100-259.
- bb. Build America, Buy America Act, P.L. 117-58, Title IX.

EXECUTIVE ORDERS

- a. Executive Order 11246 – Equal Employment Opportunity¹
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted New Building Construction¹
- f. Executive Order 12898 – Environmental Justice
- g. Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency
- h. Executive Order 13985 – Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- i. Executive Order 13988 – Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation
- j. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America’s Workers
- k. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

FEDERAL REGULATIONS

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.^{4, 5}
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.
- d. 14 CFR Part 13 – Investigative and Enforcement Procedures.
- e. 14 CFR Part 16 – Rules of Practice For Federally-Assisted Airport Enforcement Proceedings.
- f. 14 CFR Part 150 – Airport Noise Compatibility Planning.
- g. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.
- h. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.
- i. 29 CFR Part 1 – Procedures for Predetermination of Wage Rates.¹
- j. 29 CFR Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States.¹

- k. 29 CFR Part 5 – Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).¹
- l. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-assisted contracting requirements).¹
- m. 49 CFR Part 20 – New Restrictions on Lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.^{1 2}
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.¹
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
- t. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 38 – Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.
- x. 49 CFR Part 41 – Seismic Safety.

FOOTNOTES TO ASSURANCE (C)(1)

- ¹ These laws do not apply to airport planning sponsors.
- ² These laws do not apply to private sponsors.
- ³ 2 CFR Part 200 contains requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- ⁴ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- ⁵ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

2. Responsibility and Authority of the Sponsor.**a. Public Agency Sponsor:**

It has legal authority to apply for this Grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this Grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this Grant Agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. Subject to the FAA Act of 2018, Public Law 115-254, Section 163, it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Grant Agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Grant Agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or

document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Grant Agreement.

- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in this Grant Agreement and shall ensure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation with Users.

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings.

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Metropolitan Planning Organization.

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. Pavement Preventive Maintenance-Management.

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites.

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under 49 U.S.C. § 44706, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a Grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United

States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor under 40 U.S.C. §§ 3141-3144, 3146, and 3147, Public Building, Property, and Works), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in 49 U.S.C. § 47112. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this Grant Agreement, and, upon approval of the Secretary, shall be incorporated into this Grant Agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this Grant Agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.

- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, State and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:
 - 1. Operating the airport's aeronautical facilities whenever required;
 - 2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - 3. Promptly notifying pilots of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:
 1. Furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 2. Charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a Grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 - 1. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the

revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

2. If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
3. Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at 49 U.S.C. § 47102), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112-95
 - b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
 - c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of 49 U.S.C. § 47107.

26. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this Grant Agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that:

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the airport showing:
 1. boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 2. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
 3. the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
 4. all proposed and existing access points used to taxi aircraft across the airport's property boundary.

Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The

sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

- b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary:
 1. eliminate such adverse effect in a manner approved by the Secretary; or
 2. bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, color, and national origin (including limited English proficiency) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4); creed and sex (including sexual orientation and gender identity) per 49 U.S.C. § 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this Grant.

- a. Using the definitions of activity, facility, and program as found and defined in 49 CFR §§ 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
- b. Applicability
 1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
 2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
 3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.
- c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is

to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
 2. So long as the sponsor retains ownership or possession of the property.
- d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this Grant Agreement and in all proposals for agreements, including airport concessions, regardless of funding source:
- “The (**City of Avon Park**), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.”
- e. Required Contract Provisions.
1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation (DOT), and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
 2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
 3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
 4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other

participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.

- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
 1. Reinvestment in an approved noise compatibility project;
 2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
 3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117
 4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
 5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
 1. Reinvestment in an approved noise compatibility project;
 2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
 3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117
 4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
 5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a), (b), or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U.S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out any project funded under an Airport Improvement Program Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars (<https://www.faa.gov/airports/aip/media/aip-pfc-checklist.pdf>) for AIP projects as of May 31, 2022.

35. Relocation and Real Property Acquisition.

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C of 49 CFR Part 24 and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin, or sex, in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in 49 U.S.C. § 47102) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that:
 1. Describes the requests;
 2. Provides an explanation as to why the requests could not be accommodated; and
 3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

Agenda Item Summary

Date of Action: September 12, 2022

Subject: FAA AIP Grant

Item No.: D-15

Placed on Agenda by: Finance Director, Melody Sauerhafer

Staff Review: Yes

Attorney Review:

Recommended Motion(s): Approve Acceptance of the FAA AIP Planning Study Grant and Authorize the Mayor to Electronically Sign.

Documentation:

- Grant Agreement 3-12-0004-025-2022

Background:



U.S. Department
of Transportation
Federal Aviation
Administration

Airports Division
Southern Region
Florida

Orlando Airports District
Office:
8427 South Park Circle, Suite
524
Orlando, FL 32819

{{DateTime_es_:signer1:calc(now()):format(date," mmmm d, yyyy")}}

Mr. Garrett Anderson
Mayor
City of Avon Park
110 E. Main Street
Avon Park, FL 33825

Dear Mr. Anderson:

The Grant Offer for Airport Improvement Program (AIP) Project No. 3-12-0004-025-2022 at Avon Park Exec Airport is attached for execution. This letter outlines the steps you must take to properly enter into this agreement and provides other useful information. Please read the conditions, special conditions, and assurances that comprise the grant offer carefully.

You may not make any modification to the text, terms or conditions of the grant offer.

Steps You Must Take to Enter Into Agreement.

To properly enter into this agreement, you must do the following:

1. The governing body must give authority to execute the grant to the individual(s) signing the grant, i.e., the person signing the document must be the sponsor's authorized representative(s) (hereinafter "authorized representative").
2. The authorized representative must execute the grant by adding their electronic signature to the appropriate certificate at the end of the agreement.
3. Once the authorized representative has electronically signed the grant, the sponsor's attorney(s) will automatically receive an email notification.
4. On the **same day or after** the authorized representative has signed the grant, the sponsor's attorney(s) will add their electronic signature to the appropriate certificate at the end of the agreement.
5. If there are co-sponsors, the authorized representative(s) and sponsor's attorney(s) must follow the above procedures to fully execute the grant and finalize the process. Signatures must be obtained and finalized no later than **September 15, 2022**.
6. The fully executed grant will then be automatically sent to all parties as an email attachment.

Payment. Subject to the requirements in 2 CFR § 200.305 (Federal Payment), each payment request for reimbursement under this grant must be made electronically via the Delphi eInvoicing System. Please see the attached Grant Agreement for more information regarding the use of this System.

Project Timing. The terms and conditions of this agreement require you to complete the project without undue delay and no later than the Period of Performance end date (1,460 days from the grant execution date). We will be monitoring your progress to ensure proper stewardship of these Federal funds. We expect you to submit payment requests for reimbursement of allowable incurred project expenses consistent with project progress. Your grant may be placed in “inactive” status if you do not make draws on a regular basis, which will affect your ability to receive future grant offers. Costs incurred after the Period of Performance ends are generally not allowable and will be rejected unless authorized by the FAA in advance.

Reporting. Until the grant is completed and closed, you are responsible for submitting formal reports as follows:

- For all grants, you must submit by December 31st of each year this grant is open:
 1. A signed/dated SF-270 (Request for Advance or Reimbursement for non-construction projects) or SF-271 or equivalent (Outlay Report and Request for Reimbursement for Construction Programs), and
 2. An SF-425 (Federal Financial Report).
- For non-construction projects, you must submit [FAA Form 5100-140, Performance Report](#) within 30 days of the end of the Federal fiscal year.
- For construction projects, you must submit [FAA Form 5370-1, Construction Progress and Inspection Report](#), within 30 days of the end of each Federal fiscal quarter.

Audit Requirements. As a condition of receiving Federal assistance under this award, you must comply with audit requirements as established under 2 CFR part 200. Subpart F requires non-Federal entities that expend \$750,000 or more in Federal awards to conduct a single or program specific audit for that year. Note that this includes Federal expenditures made under other Federal-assistance programs. Please take appropriate and necessary action to ensure your organization will comply with applicable audit requirements and standards.

Closeout. Once the project(s) is completed and all costs are determined, we ask that you work with your FAA contact indicated below to close the project without delay and submit the necessary final closeout documentation as required by your Region/Airports District Office.

FAA Contact Information. Miguel Martinez, (407) 487-7235, miguel.martinez@faa.gov is the assigned program manager for this grant and is readily available to assist you and your designated representative with the requirements stated herein.

We sincerely value your cooperation in these efforts and look forward to working with you to complete this important project.

Sincerely,

{Sig_es_:signer1: signature}}

Bart Vernace, P.E.
Manager



U.S. Department
of Transportation
Federal Aviation
Administration

FAA Airport Improvement Program (AIP)

GRANT AGREEMENT

Part I - Offer

Federal Award Offer Date	<code>{{DateTime_es_:_signer1:calc(now()):format(date," mmmm d, yyyy")}}</code>
Airport/Planning Area	Avon Park Exec Airport
FY2022 AIP Grant Number	3-12-0004-025-2022
Unique Entity Identifier	YX6KHX6NTSC5
TO:	City of Avon Park
	(herein called the "Sponsor")

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated August 18, 2022, for a grant of Federal funds for a project at or associated with the Avon Park Exec Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Avon Park Exec Airport (herein called the "Project") consisting of the following:

Conduct Privatization Planning Study

which is more fully described in the Project Application.

NOW THEREFORE, Pursuant to and for the purpose of carrying out the Title 49, United States Code (U.S.C.), Chapters 471 and 475; 49 U.S.C. §§ 40101 et seq., and 48103; FAA Reauthorization Act of 2018 (Public Law Number 115-254); the Department of Transportation Appropriations Act, 2021 (Public Law 116-260, Division L); the Consolidated Appropriations Act, 2022 (Public Law 117-103); and the representations contained in the Project Application; and in consideration of: (a) the Sponsor's adoption and ratification of the Grant Assurances attached hereto; (b) the Sponsor's acceptance of this Offer; and (c) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurance and conditions as herein provided;

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay ninety (90) percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.

Assistance Listings Number (Formerly CFDA Number): 20.106

This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$432,000.

The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):

\$ 432,000 for planning

\$ 0 airport development or noise program implementation; and,

\$ 0 for land acquisition.

2. **Grant Performance.** This Grant Agreement is subject to the following Federal award requirements:

- a. Period of Performance:

1. Shall start on the date the Sponsor formally accepts this Agreement and is the date signed by the last Sponsor signatory to the Agreement. The end date of the Period of Performance is 4 years (1,460 calendar days) from the date of acceptance. The Period of Performance end date shall not affect, relieve, or reduce Sponsor obligations and assurances that extend beyond the closeout of this Grant Agreement.
2. Means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions or budget periods. (2 Code of Federal Regulations (CFR) § 200.1).

- b. Budget Period:

1. For this Grant is 4 years (1,460 calendar days) and follows the same start and end date as the period of performance provided in paragraph (2)(a)(1). Pursuant to 2 CFR § 200.403(h), the Sponsor may charge to the Grant only allowable costs incurred during the Budget Period.
2. Means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which the Sponsor is authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to 2 CFR § 200.308.

- c. Close Out and Termination

1. Unless the FAA authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later than 120 calendar days after the end date of the period of performance. If the Sponsor does not submit all required closeout documentation within this time period, the FAA will proceed to close out the grant within one year of the period of performance end date with the information available at the end of 120 days. (2 CFR § 200.344).

2. The FAA may terminate this Grant, in whole or in part, in accordance with the conditions set forth in 2 CFR § 200.340, or other Federal regulatory or statutory authorities as applicable.
3. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
4. **Indirect Costs - Sponsor.** The Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the project application as accepted by the FAA, to allowable costs for Sponsor direct salaries and wages.
5. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with 49 U.S.C. § 47109, the regulations, policies, and procedures of the Secretary of Transportation ("Secretary"), and any superseding legislation. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
6. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this Agreement, 49 U.S.C. Chapters 471 and 475, and the regulations, and the Secretary's policies and procedures. Per 2 CFR § 200.308, the Sponsor agrees to report and request prior FAA approval for any disengagement from performing the project that exceeds three months or a 25 percent reduction in time devoted to the project. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the grant assurances, which are part of this Agreement.
7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before September 15, 2022, or such subsequent date as may be prescribed in writing by the FAA.
9. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner for any project upon which Federal funds have been expended. For the purposes of this Grant Agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor, that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.
10. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this Grant Agreement.
11. **System for Award Management (SAM) Registration and Unique Entity Identifier (UEI).**

- a. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR § 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this Grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).
 - b. Unique entity identifier (UEI) means a 12-character alpha-numeric value used to identify a specific commercial, nonprofit or governmental entity. A UEI may be obtained from SAM.gov at <https://sam.gov/content/entity-registration>.
12. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this Agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.
13. **Informal Letter Amendment of AIP Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.

The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA's authority to increase the maximum obligation does not apply to the "planning" component of Condition No. 1, Maximum Obligation.

The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.

An informal letter amendment has the same force and effect as a formal grant amendment.
14. **Air and Water Quality.** The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this Grant Agreement.
15. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all Federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.
16. **Buy American.** Unless otherwise approved in advance by the FAA, in accordance with 49 U.S.C. § 50101, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for which funds are provided under this grant. The Sponsor will include a provision implementing Buy American in every contract and subcontract awarded under this Grant.
17. **Build America, Buy America.** The sponsor must comply with the requirements under the Build America, Buy America Act (Public Law 117-58).
18. **Maximum Obligation Increase.** In accordance with 49 U.S.C. § 47108(b)(3), as amended, the maximum obligation of the United States, as stated in Condition No. 1, Maximum Obligation, of this Grant Offer:

- a. May not be increased for a planning project;
- b. May be increased by not more than 15 percent for development projects if funds are available;
- c. May be increased by not more than the greater of the following for a land project, if funds are available:
 - 1. 15 percent; or
 - 2. 25 percent of the total increase in allowable project costs attributable to acquiring an interest in the land.

If the sponsor requests an increase, any eligible increase in funding will be subject to the United States Government share as provided in 49 U.S.C. § 47110, or other superseding legislation if applicable, for the fiscal year appropriation with which the increase is funded. The FAA is not responsible for the same Federal share provided herein for any amount increased over the initial grant amount. The FAA may adjust the Federal share as applicable through an informal letter of amendment.

19. Audits for Sponsors.

PUBLIC SPONSORS. The Sponsor must provide for a Single Audit or program-specific audit in accordance with 2 CFR Part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. Upon request of the FAA, the Sponsor shall provide one copy of the completed audit to the FAA. Sponsors that expend less than \$750,000 in Federal awards and are exempt from Federal audit requirements must make records available for review or audit by the appropriate Federal agency officials, State, and Government Accountability Office. The FAA and other appropriate Federal agencies may request additional information to meet all Federal audit requirements.

20. Suspension or Debarment. When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:

- a. Verify the non-Federal entity is eligible to participate in this Federal program by:
 - 1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if the non-Federal entity is excluded or disqualified; or
 - 2. Collecting a certification statement from the non-Federal entity attesting they are not excluded or disqualified from participating; or
 - 3. Adding a clause or condition to covered transactions attesting the individual or firm are not excluded or disqualified from participating.
- b. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions (e.g., Sub-contracts).
- c. Immediately disclose in writing to the FAA whenever (1) the Sponsor learns they have entered into a covered transaction with an ineligible entity or (2) the Public Sponsor suspends or debars a contractor, person, or entity.

21. Ban on Texting While Driving.

- a. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
 - 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
 - 2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- b. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts, and subcontracts funded with this Grant.

22. Trafficking in Persons.

- a. You as the recipient, your employees, subrecipients under this Grant, and subrecipients' employees may not:
 - 1. Engage in severe forms of trafficking in persons during the period of time that the Grant and applicable conditions are in effect;
 - 2. Procure a commercial sex act during the period of time that the Grant and applicable conditions are in effect; or
 - 3. Use forced labor in the performance of the Grant or any subgrants under this Grant.
- b. We as the Federal awarding agency, may unilaterally terminate this Grant, without penalty, if you or a subrecipient that is a private entity:
 - 1. Is determined to have violated a prohibition in paragraph (a) of this condition; or
 - 2. Has an employee who is determined by the agency official authorized to terminate the Grant to have violated a prohibition in paragraph (a) of this Condition through conduct that is either –
 - a. Associated with performance under this Grant; or
 - b. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement), as implemented by our agency at 2 CFR Part 1200.
- c. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph (a) of this Condition.
- d. Our right to terminate unilaterally that is described in paragraph (a) of this Condition:
 - 1. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7104(g)), and

2. Is in addition to all other remedies for noncompliance that are available to us under this Grant Agreement.
23. **AIP Funded Work Included in a PFC Application.** Within 90 days of acceptance of this Grant Agreement, the Sponsor must submit to the FAA an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC project also covered under this Grant Agreement as described in the project application. The airport sponsor may not make any expenditure under this Grant Agreement until project work addressed under this Grant Agreement is removed from an approved PFC application by amendment.
 24. **Exhibit "A" Property Map.** The Exhibit "A" Property Map date August 31, 2022, is incorporated herein by reference or is submitted with the project application and made part of this Grant Agreement.
 25. **Employee Protection from Reprisal.**
 - a. Prohibition of Reprisals
 1. In accordance with 41 U.S.C. § 4712, an employee of a Sponsor, grantee, subgrantee, contractor, or subcontractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph (a)(2) below, information that the employee reasonably believes is evidence of:
 - i. Gross mismanagement of a Federal grant;
 - ii. Gross waste of Federal funds;
 - iii. An abuse of authority relating to implementation or use of Federal funds;
 - iv. A substantial and specific danger to public health or safety; or
 - v. A violation of law, rule, or regulation related to a Federal grant.
 2. Persons and bodies covered. The persons and bodies to which a disclosure by an employee is covered are as follows:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Federal employee responsible for contract or grant oversight or management at the relevant agency;
 - v. A court or grand jury;
 - vi. A management official or other employee of the Sponsor, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct; or
 - vii. An authorized official of the Department of Justice or other law enforcement agency.
 3. Submission of Complaint. A person who believes that they have been subjected to a reprisal prohibited by paragraph (a) of this Condition may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.
 4. Time Limitation for Submittal of a Complaint. A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.
 5. Required Actions of the Inspector General. Actions, limitations, and exceptions of the Inspector General's office are established under 41 U.S.C. § 4712(b).

6. Assumption of Rights to Civil Remedy. Upon receipt of an explanation of a decision not to conduct or continue an investigation by the OIG, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c)(2).

SPECIAL CONDITIONS

26. **Consultant Contract and Cost Analysis.** The Sponsor understands and agrees that no reimbursement will be made on the consultant contract portion of this Grant until the FAA has received the consultant contract, the Sponsor's analysis of costs, and the independent fee estimate.
27. **Buy American Executive Orders.** The Sponsor agrees to abide by applicable Executive Orders in effect at the time this Grant Agreement is executed, including Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the Grant Assurances, terms, and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.¹

**UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION**

{{Sig_es_:signer1:signature:dimension(height=12mm, width=70mm)}}

(Signature)

{{N_es_:signer1:fullname }}

(Typed Name)

{{*Ttl_es_:signer1:title }}

(Title of FAA Official)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the Grant Assurances, terms, and conditions in this Offer and in the Project Application.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.²

Dated {{DateTime_es_:signer2:calc(now()):format(date," mmmm d, yyyy")}}

City of Avon Park

(Name of Sponsor)

{{Sig_es_:signer2:signature:dimension(height=12mm, width=70mm)}}

(Signature of Sponsor's Authorized Official)

By: {{N_es_:signer2:fullname }}

(Typed Name of Sponsor's Authorized Official)

Title: {{*Ttl_es_:signer2:title }}

(Title of Sponsor's Authorized Official)

² Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

CERTIFICATE OF SPONSOR'S ATTORNEY

I, **{{N_es :signer3: fullname}}**, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Florida. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative, who has been duly authorized to execute this Grant Agreement, which is in all respects due and proper and in accordance with the laws of the said State; and Title 49, United States Code (U.S.C.), Chapters 471 and 475; 49 U.S.C. §§ 40101 et seq., and 48103; FAA Reauthorization Act of 2018 (Public Law Number 115-254); the Department of Transportation Appropriations Act, 2021 (Public Law 116-260, Division L); the Consolidated Appropriations Act, 2022 (Public Law 117-103); and the representations contained in the Project Application. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.³

Dated at **{{DateTime_es :signer3:calc(now()):format(date," mmmm d, yyyy")}}**

By: **{{Sig_es :signer3:signature:dimension(height=12mm, width=70mm)}}**

(Signature of Sponsor's Attorney)

³ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

ASSURANCES

AIRPORT SPONSORS

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this Grant Agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph (1) also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.**

Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25, 30, 32, 33, 34, and 37 in Section C apply to planning projects. The terms, conditions, and assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Grant including but not limited to the following:

FEDERAL LEGISLATION

- a. 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act, as amended — 40 U.S.C. §§ 3141-3144, 3146, and 3147, et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. § 201, et seq.
- d. Hatch Act – 5 U.S.C. § 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601, et seq.^{1, 2}
- f. National Historic Preservation Act of 1966 – Section 106 - 54 U.S.C. § 306108.1.¹
- g. Archeological and Historic Preservation Act of 1974 - 54 U.S.C. § 312501, et seq.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section § 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended - 42 U.S.C. § 7401, et seq.
- j. Coastal Zone Management Act, P.L. 92-583, as amended - 16 U.S.C. § 1451, et seq.
- k. Flood Disaster Protection Act of 1973 – Section 102(a) - 42 U.S.C. § 4012a.¹
- l. 49 U.S.C. § 303, (formerly known as Section 4(f)).
- m. Rehabilitation Act of 1973 - 29 U.S.C. § 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin).
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. § 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968, as amended - 42 U.S.C. § 4151, et seq.¹
- s. Powerplant and Industrial Fuel Use Act of 1978 – Section 403 - 42 U.S.C. § 8373.¹
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. § 3701, et seq.¹
- u. Copeland Anti-kickback Act - 18 U.S.C. § 874.¹
- v. National Environmental Policy Act of 1969 - 42 U.S.C. § 4321, et seq.¹
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271, et seq.
- x. Single Audit Act of 1984 - 31 U.S.C. § 7501, et seq.²
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. §§ 8101 through 8105.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (P.L. 109-282, as amended by section 6202 of P.L. 110-252).

- aa. Civil Rights Restoration Act of 1987, P.L. 100-259.
- bb. Build America, Buy America Act, P.L. 117-58, Title IX.

EXECUTIVE ORDERS

- a. Executive Order 11246 – Equal Employment Opportunity¹
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted New Building Construction¹
- f. Executive Order 12898 – Environmental Justice
- g. Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency
- h. Executive Order 13985 – Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- i. Executive Order 13988 – Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation
- j. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America’s Workers
- k. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

FEDERAL REGULATIONS

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.^{4,5}
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.
- d. 14 CFR Part 13 – Investigative and Enforcement Procedures.
- e. 14 CFR Part 16 – Rules of Practice For Federally-Assisted Airport Enforcement Proceedings.
- f. 14 CFR Part 150 – Airport Noise Compatibility Planning.
- g. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.
- h. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.
- i. 29 CFR Part 1 – Procedures for Predetermination of Wage Rates.¹
- j. 29 CFR Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States.¹

- k. 29 CFR Part 5 – Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).¹
- l. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-assisted contracting requirements).¹
- m. 49 CFR Part 20 – New Restrictions on Lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.^{1 2}
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.¹
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
- t. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 38 – Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.
- x. 49 CFR Part 41 – Seismic Safety.

FOOTNOTES TO ASSURANCE (C)(1)

- ¹ These laws do not apply to airport planning sponsors.
- ² These laws do not apply to private sponsors.
- ³ 2 CFR Part 200 contains requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- ⁴ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- ⁵ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

2. Responsibility and Authority of the Sponsor.**a. Public Agency Sponsor:**

It has legal authority to apply for this Grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this Grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this Grant Agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. Subject to the FAA Act of 2018, Public Law 115-254, Section 163, it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Grant Agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Grant Agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or

document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Grant Agreement.

- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in this Grant Agreement and shall ensure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation with Users.

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings.

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Metropolitan Planning Organization.

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. Pavement Preventive Maintenance-Management.

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites.

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under 49 U.S.C. § 44706, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a Grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United

States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor under 40 U.S.C. §§ 3141-3144, 3146, and 3147, Public Building, Property, and Works), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in 49 U.S.C. § 47112. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this Grant Agreement, and, upon approval of the Secretary, shall be incorporated into this Grant Agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this Grant Agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.

- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, State and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:
 - 1. Operating the airport's aeronautical facilities whenever required;
 - 2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - 3. Promptly notifying pilots of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:
 1. Furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 2. Charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a Grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 - 1. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the

revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

2. If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
3. Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at 49 U.S.C. § 47102), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112-95
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
- c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of 49 U.S.C. § 47107.

26. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this Grant Agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that:

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the airport showing:
 1. boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 2. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
 3. the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
 4. all proposed and existing access points used to taxi aircraft across the airport's property boundary.

Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The

sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

- b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary:
 1. eliminate such adverse effect in a manner approved by the Secretary; or
 2. bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, color, and national origin (including limited English proficiency) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4); creed and sex (including sexual orientation and gender identity) per 49 U.S.C. § 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this Grant.

- a. Using the definitions of activity, facility, and program as found and defined in 49 CFR §§ 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
- b. Applicability
 1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
 2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
 3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.
- c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is

to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
 2. So long as the sponsor retains ownership or possession of the property.
- d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this Grant Agreement and in all proposals for agreements, including airport concessions, regardless of funding source:
- “The (**City of Avon Park**), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.”
- e. Required Contract Provisions.
1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation (DOT), and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
 2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
 3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
 4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other

participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.

- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:

1. Reinvestment in an approved noise compatibility project;
2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117
4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:

1. Reinvestment in an approved noise compatibility project;
2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117
4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a), (b), or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U.S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out any project funded under an Airport Improvement Program Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars (<https://www.faa.gov/airports/aip/media/aip-pfc-checklist.pdf>) for AIP projects as of August 18, 2022.

35. Relocation and Real Property Acquisition.

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C of 49 CFR Part 24 and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin, or sex, in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in 49 U.S.C. § 47102) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that:
 1. Describes the requests;
 2. Provides an explanation as to why the requests could not be accommodated; and
 3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

ASSURANCES

PLANNING AGENCY SPONSORS

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

B. Duration and Applicability.

The terms, conditions and assurances of this Grant Agreement shall remain in full force and effect during the life of the project.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

FEDERAL LEGISLATION

- a. 49, U.S.C., subtitle VII, as amended.
- b. Federal Fair Labor Standards Act - 29 U.S.C. § 201, et seq.
- c. Hatch Act – 5 U.S.C. § 1501, et seq.¹
- d. Rehabilitation Act of 1973 – 29 U.S.C. § 794
- e. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin).
- f. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).
- g. Age Discrimination Act of 1975 - 42 U.S.C. § 6101, et seq.
- h. Single Audit Act of 1984 - 31 U.S.C. § 7501, et seq.¹
- i. Drug-Free Workplace Act of 1988 - 41 U.S.C. § 8101 through 8105.
- j. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Public Law 110-252).
- k. Build America, Buy America Act, P.L. 117-58, Title IX.

EXECUTIVE ORDERS

- a. Executive Order 12372 - Intergovernmental Review of Federal Programs
- b. Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency
- c. Executive Order 13985 – Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- d. Executive Order 13988 – Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation
- e. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America’s Workers
- f. Executive Order 14008 - Tackling the Climate Crisis at Home and Abroad

FEDERAL REGULATIONS

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.^{3, 4}
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.
- d. 14 CFR Part 13 – Investigative and Enforcement Procedures.
- e. 14 CFR Part 16 – Rules of Practice for Federally-Assisted Airport Enforcement Proceedings.
- f. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 49 CFR Part 20 – New Restrictions on Lobbying.
- i. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964.
- j. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- k. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
- l. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.
- m. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)

FOOTNOTES TO ASSURANCE C.1.

¹ These laws do not apply to private sponsors.

² 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall

apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

- ³ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- ⁴ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this Grant Agreement.

2. Responsibility and Authority of the Sponsor.

It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States.

4. Preserving Rights and Powers

It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary

5. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies in the planning area.

6. Accounting System, Audit, and Record Keeping Requirements

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

7. Planning Projects

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the Sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the Sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not mean constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

8. Reports and Inspections.

It will submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request.

9. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, and national origin (including limited English proficiency) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4; creed and sex (including sexual orientation and gender identity) per 49 U.S.C. § 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this grant.

- a. Using the definitions of activity, facility, and program as found and defined in 49 CFR §§ 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
- b. Applicability

1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
2. So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language.

It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

"The (**City of Avon Park**), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award."

e. Required Contract Provisions.

1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.

4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

10. Engineering and Design Services.

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U.S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

11. Foreign Market Restrictions.

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

12. Policies, Standards, and Specifications.

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary.

13. Disadvantaged Business Enterprises.

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).

Agenda Item Summary

Date of Action: September 12, 2022

Subject: Reappointment of Board Members to the CRA Advisory Board

Item No.: D-16

Placed on Agenda by: City Clerk, Christian Hardman

Staff Review: Yes

Attorney Review:

Recommended Motion(s): Reappoint Members: Gerald Snell, Rick Hayes, Bill Jarrett, Dana Sevigny, and Kelvin Sheppard to the CRA Advisory Board

Documentation:

- Avon Park CRA Advisory Board Bylaws
- Page 6 of the City of Avon Park's Boards and Commissions Fact Sheet
- Past 12-months Attendance for each Board Member

Background:

The official by-laws for the CRA Advisory Board (adopted on May 24, 2021) provides that the City Council will appoint all members of the CRA Advisory Board. Staff is requesting that the above members be reappointed; extending their terms to September 30, 2025. Each member has confirmed they are still interested in serving.

**BYLAWS OF THE
AVON PARK
COMMUNITY REDEVELOPMENT AGENCY
CITIZEN'S ADVISORY BOARD
CITY OF AVON PARK, FLORIDA**

ARTICLE I -- NAME AND AUTHORIZATION

A. NAME

The City Council of the City of Avon Park has formed an advisory board which shall be known as the Community Redevelopment Agency, Citizens Advisory Board, also known as the CRA Advisory Board, but also referred to in these Bylaws as the "Advisory Board".

B. AUTHORIZATION

1. The Advisory Board exists by the authority of the City of Avon Park Community Redevelopment Agency (the Community Redevelopment Agency) and the City of Avon Park Community Redevelopment Plans of Main Street CRA Advisory Board, Southside CRA Advisory Board and Airport CRA Advisory Board approved by the City Council on March 28, 1988 in Resolution(s) No. 822.

2. The area of operation for the CRA Advisory Board consists of the areas determined to be in need of redevelopment by Resolution(s) No18-87-88, adopted on the 22nd day of February, 1988 by the City Council approving the CRA Board, which is subject to the Redevelopment Plan adopted by the City Council in Resolution Nos. 06-16A dated the 22nd day of August, 2016.

3. The Advisory Board shall operate under the authority of the Community Redevelopment Agency, and report to that agency.

ARTICLE II -- PURPOSE AND FUNCTION

A. PURPOSE

The purpose of the Advisory Board is to advise the Community Redevelopment Agency on redevelopment strategies to be addressed and implemented in support of the Redevelopment Area.

B. FUNCTION

The functions of the Advisory Board shall be as follows:

1. To review the Redevelopment Plan(s) from time to time and, when necessary, submit written recommendations to the Community Redevelopment Agency for any changes to the plan;

2. To make written recommendations to the Community Redevelopment Agency on plan implementation, including developing an annual work program, setting project

priorities, budget allocations and developing incentives to further the redevelopment efforts;

3. To hold public meetings for the purpose of receiving input from members of the public related to the Redevelopment Area and to report such information to the Community Redevelopment Agency; and

4. To make written recommendations on the expenditure or investment by the Community Redevelopment Agency of local, State and/or Federal funds for redevelopment activities within the Redevelopment Area boundaries.

C. ADDITIONAL RESPONSIBILITIES

The Community Redevelopment Agency may assign additional responsibilities to the CRA Advisory Board.

ARTICLE III -- MEMBERSHIP

A. MEMBERS

There shall be a total number of seven (7) members on the CRA Advisory Board.

B. ELIGIBILITY

Membership on the Advisory Board will be comprised as follows

- a. Three (3) members from Main Street redevelopment area;
- b. Two (2) members from Southside redevelopment area;
- c. Two (2) members from Airport redevelopment area, and
- d. Three (3) alternate members, one from each redevelopment area

The representatives from all districts must meet at least one of the following criteria to serve on the CRA Advisory Board:

- a. Reside in his/her respective CRA district
- b. Gainfully work from an office within his/her respective CRA district
- c. Lease or own property within his/her respective CRA district
- d. Serve as an active board member of an organization granted 501(c)(3) tax-exempt status by the IRS and located within his/her respective CRA district

C. APPOINTMENTS

1. The Avon Park City Council will appoint all members of the CRA Advisory Board. Each nominee shall complete an application form, available from the City Clerk of the City of Avon Park.

2. If a vacancy occurs, the CRA Advisory Board will notify the City Clerk with the affected district vacancy. Notice of the vacancy will be posted on the City of Avon Park official bulletin board by the City Clerk.

3. Completed applications will be provided to the City Council for appointment to the CRA Advisory Board.

D. TERMS

Following the initial terms, terms will be three years beginning October 1, and expiring September 30, three years later. A member may be appointed for no more than three full consecutive terms. The initial terms shall expire as follows:

- | | |
|--------------------------|--------------|
| 1. Main Street district | Oct. 1, 2019 |
| 2. Main Street district; | Oct. 1, 2019 |
| 3. Main Street district; | Oct. 1, 2019 |
| 4. Southside district; | Oct. 1, 2019 |
| 5. Southside district; | Oct. 1, 2019 |
| 6. Airport district; | Oct. 1, 2019 |
| 7. Airport district; | Oct. 1, 2019 |

Thereafter, each term shall be for three years.

E. VACANCIES

1. A member and alternate member's position shall become vacant when:
 - a. A member is absent with or without excuse from 33 percent of the regularly scheduled meetings in a given calendar year unless such absence is excused in advance by the Chair of the Advisory Board (hereinafter "Chair"). All absences will be duly recorded in the meeting minutes. Absences from emergency or special called meetings will not be recorded against a member in calculating the percent of absences. Special conditions on the removal of members for absences may be made by the Chair when the absences are due to health or to time-limited extenuating circumstances, and the absences do not affect the ability of the Advisory Board to maintain a quorum; or
 - b. The Community Redevelopment Agency is notified by staff that a member no longer meets the membership requirements; or
 - c. A member's term expires; or
 - d. A member resigns, is removed, or dies.
2. The Advisory Board Chair shall promptly notify the Community Redevelopment Agency of any vacancy.

ARTICLE IV -- ORGANIZATION

A. OFFICERS

1. The officers of the Advisory Board shall consist of a Chair and a Vice-Chair.

2. Each officer duly elected by the Advisory Board shall serve a term of one year until the next annual election or appointment. All officers shall hold office until their successors have been elected or until their earlier resignation or removal from office. No person may simultaneously hold more than one office on the Advisory Board. No officer may serve more than three consecutive three-year terms in that position.

3. Officers shall be elected annually at the first regular meeting of each year after October 1. Election requires nomination from the floor and an affirmative vote by a majority of the Board members present, provided a quorum is present at such meeting. The term of officers shall begin immediately following their elections.

4. A vacancy in any office shall be filled through a special election and the affirmative vote of a majority of Advisory Board members present and voting at a meeting of the Advisory Board. The member(s) chosen at the special election shall serve until next scheduled election of officers.

B. QUORUM

A majority of the voting members of the Advisory Board shall constitute a quorum to hold a meeting or take any action.

C. VOTING RIGHTS

Each voting member shall be entitled to one (1) vote and shall cast that vote on each item submitted. Proxy votes and absentee ballots shall not be permitted. Members shall only abstain from a vote when there is a valid conflict of interest addressed to the Committee. Members attending by telephone may vote as permitted by Florida law, however, the necessary quorum for conduct of business must be made up of only members physically present at the noticed meeting location.

ARTICLE V -- OFFICER DUTIES

A. CHAIR

The Chair shall preside at all meetings of the Advisory Board and shall have the duties normally conferred by parliamentary usage on such officers. The Chair shall call special meetings, serve as the Advisory Board liaison to the Community Redevelopment Agency, represent the Advisory Board at public hearings and presentations, and other duties as are customary for the Chair. It is the Chair's responsibility to ensure the Advisory Board compliance with the by-laws.

B. VICE CHAIR

The Vice Chair shall act for the Chair in the Chair's absence. The Vice Chair shall also perform such duties as are delegated by the Chair.

C. REMOVAL

When an officer has been absent or has not performed the duties of that office for three (3) consecutive meetings, that officer may be removed from office by the Advisory Board, with a majority vote, at a regularly scheduled meeting.

ARTICLE VI – SUB-COMMITTEES

- A. There shall be no standing sub-committees to the Advisory Board.
- B. The Advisory Board may create sub-committees as the need arises. When a sub-committee is created, the Advisory Board will specify its mission or purpose and determine when the sub-committee dissolves. Any sub-committee will be subordinate to the Advisory Board. Sub-committees are subject to all provisions, policies, rules and laws applicable to standing Advisory Board, including these by-laws.
- C. The members of each sub-committee shall be elected by the Advisory Board for such term and shall have such qualifications as the Advisory Board may desire.

ARTICLE VII -- BOARD OPERATIONS

- A. The Advisory Board shall have no authority other than as stipulated by the bylaws and approved by the Community Redevelopment Agency.
- B. Regular meetings of the Advisory Board will be monthly on the 2nd Thursday of each month, or as modified by a majority vote of the Board. The Chair may change the meeting date with notification in advance as provided in D. below. Special/Emergency meetings may be called by the Chair, or by a majority of the Advisory Board members so voting at a noticed meeting.
- C. Ad-hoc sub-committees will establish a regular meeting schedule convenient to the membership.
- D. Written notice of every meeting of the Advisory Board, along with a prepared agenda, will be posted at least five (5) days in advance of regular and special meetings and not less than two (2) days in advance of emergency meetings. For regular meetings, notice shall be posted on the City of Avon Park official bulletin board located within the City Hall building, 110 E Main St., Avon Park, FL 33825 and on the City's website. Notice of emergency meetings, rescheduled regular meetings and special meetings shall be posted at City Hall and on the City website, as well as provided to all Advisory Board members, all Community Redevelopment Agency members, and the press, by hand delivery, telephone, or email with verification of receipt. All Advisory Board and ad-hoc sub-committees meetings are open to the public in accordance with Florida's Government in the Sunshine Law, Section 286.011, Florida Statutes. Meetings shall be held in facilities readily accessible to all citizens.
- E. The minutes of all meetings shall be promptly recorded, and such records shall be open to public inspection, in accordance with applicable law.
- F. The agenda for each meeting of the Advisory Board, or any of its sub-committees, shall be outlined by the Chair and submitted to City staff for preparation and dissemination. Any Advisory Board member may place an item on the agenda by submitting it to the Chair for forwarding to City staff prior to the deadline for publishing the notice of such meeting. All agendas of the Advisory Board and ad-hoc sub-committees are available to the public in accordance with applicable law.

- G. The order of business at regular meetings shall be as follows, unless modified by the Chair:
1. Roll Call
 2. Adoption of the Agenda
 3. Adoption of the minutes from the previous meeting
 4. Communications
 5. Old Business
 6. New Business
 7. Citizen's Comments
 8. Adjournment
- H. The Chair may refer to *Roberts' Rules of Order, Revised*, for guidance on parliamentary procedure at all meetings of the Advisory Committee.
- I. All members shall comply with the Florida Public Records Act, Chapter 119 F.S.

ARTICLE VIII -- STAFF SERVICES

- A. The City of Avon Park shall serve as staff to the Advisory Board with technical and resource staff support provided by other City Departments as needed. Staff services will include:
1. Providing a schedule of meetings to the Advisory Board members, arranging meeting locations, maintaining summary minutes of the meetings, preparing and distributing appropriate information related to the meeting agenda;
 2. Informing the Advisory Board of events, activities, policies, programs, etc. occurring within the scope of the Advisory Board function and informing the Advisory Board of all City Council or department requests for information or assistance;
 3. Ensuring the City Clerk is informed of all vacancies, expired terms, changes in officers, or any other changes to the Advisory Board and that all requests for review of applications by the Advisory Board, and any subsequent recommendations by the Advisory Board or staff, are returned in a timely manner to the City Clerk to facilitate the appointment process;
 4. The responsibility for the continuous flow of information to the Community Redevelopment Agency, including providing reports, statutorily required reporting, actions, and recommendations of the Advisory Board and notification of noncompliance by the Board or Chair with the bylaws or statutes;
 5. The responsibility for ensuring information provided by the Advisory Board for Community Redevelopment Agency review is appropriately agendaed for the meetings of the Community Redevelopment Agency.
- B. New members will receive a data format version of the Florida Government in the Sunshine Manual. A formal, standard orientation program will be provided by staff of the City of Avon Park to all new members. The program will address, but will not be limited to, the bylaws, conflict of interest, the State of Florida Sunshine Law, ethics violations, and stress the legal obligations and responsibilities. Staff will ensure responses are provided to any concerns the new

members may have regarding the duties and responsibilities of the Advisory Board and the members. All Advisory Board Members shall attend an annual summary of the Florida Ethics Code, Public Records Act and Sunshine Act given by staff, or if unable to attend, complete a comparable training course provided for compliance with section 112.3142 F.S.

C. Upon request, the City Attorney or his/her designee will address legal issues.

ARTICLE IX -- SUNSET PROVISION

The Community Redevelopment Agency, through the City of Avon Park City Council will conduct a formal review of the activities and accomplishments of the Advisory Board every three (3) years to determine if the Advisory Board has completed its original objectives and to determine if the Advisory Board should continue its activities.

ARTICLE X -- BYLAWS AND EFFECTIVE DATE

The Community Redevelopment Agency may amend these by-laws at any time provided the Advisory Board has been allowed adequate opportunity to review and comment on the proposed changes.

These Bylaws shall become effective upon adoption by the Community Redevelopment Agency.

Reviewed by the Advisory Board on: May 13, 2021.

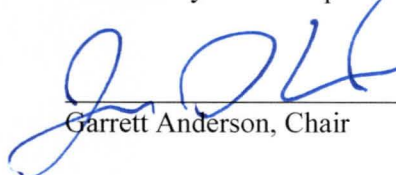
Date Approved by Community Redevelopment Agency: May 24, 2021.

Citizens Advisory Committee



Gerald Snell, Chair

City of Avon Park
Community Redevelopment Agency



Garrett Anderson, Chair

COMMUNITY REDEVELOPMENT AGENCY ("CRA")

The CRA Board (comprised of City Council members) meets on the second Thursday of each month.

CRA ADVISORY COMMITTEE

Board Chairman, Gerald Snell: **Term: October 1, 2019 to September 30, 2022**

Board Member, Rick Hayes: **Term: October 1, 2019 to September 30, 2022**

Board Member, Bill Jarrett: **Term: October 1, 2019 to September 30, 2022**

Board Member, Dana Sevigny: **Term: October 1, 2019 to September 30, 2022**

Board Member, Kelvin Sheppard: **Term: October 1, 2019 to September 30, 2022**

Avon Park City Liaison: Deputy Mayor Barnard

Meetings

Meetings are on the second Thursday of each month, unless approved otherwise.

Vacancies

2-Board Members for the Airport District

1-Alternate Board Member for each district

The below is a list of dates documenting the CRA Advisory Board member attendance for the past 12-months.

- 7/8/2021- Board Members in Attendance: Hayes, Jarrett, Sheppard, Sevigny, Danzey, Snell
Board Members Absent: None
- 8/12/2021- Board Members in Attendance: Hayes, Jarrett, Sheppard, Sevigny, Snell
Board Members Absent: Danzey
- 9/16/2021- Board Members in Attendance: Jarrett, Sheppard, Danzey, Snell
Board Members Absent: Sevigny, Hayes
- 10/14/2021- Board Members in Attendance: Jarrett, Sevigny, Sheppard, Snell
Board Members Absent: Danzey, Hayes
- 11/18/2021- Board Members in Attendance: Hayes, Jarrett, Sheppard, Sevigny, Snell
Board Members Absent: Danzey
- 12/9/2021- Board Members in Attendance: Hayes, Jarrett, Sheppard, Sevigny, Snell
Board Members Absent: Danzey
- 1/13/2022-- Board Members in Attendance: Jarrett, Sheppard, Sevigny, Danzey, SNell
Board Members Absent: Hayes
- 2/10/2022- Board Members in Attendance: Jarrett, Hayes, Sheppard, Danzey, Snell
Board Members Absent: Sevigny
- 5/12/2022- Board Members in Attendance: Hayes, Sheppard, Danzey, Snell
Board Members Absent: Jarrett, Sevigny
- 6/9/2022-- Board Members in Attendance: Jarrett, Sevigny, Sheppard, Snell
Board Members Absence: Hayes, Danzey
- 7/21/2022-- Board Members in Attendance: Jarrett, Hayes, Sevigny, Sheppard
Board Members Absence: Danzey, Snell
- 8/11/2022-- Board Members in Attendance: Jarrett, Sevigny, Sheppard, Danzey, Snell
Board Members Absence: Hayes

Agenda Item Summary

Date of Action: Sept 12, 2022

Subject: City Manager Updates

Item No.: H-17

Placed on Agenda by:

Staff Review:

Attorney Review:

Recommended Motion(s):

Documentation:

Updates

- FAA
- CE Officers' Certifications
- Information - Renewal of Interlocal Agreement with School Board of Highlands County "Head Field." Per city attorney, no action by Council is needed (Letter and Interlocal Agreement attached FYI)
- Letter from FDEP – City's Yard Waste Disposal Facility in compliance (Letter attached)
- Halloween (Trick or Treat) Date (city clerk has received several calls about what date/time the city council has set for city's trick or treat). Halloween (October 31st) falls on Sunday this year.

August 4, 2022

City of Avon Park, Florida
110 East Main Street
Avon Park, FL 33825

Re: Interlocal Agreement

To Whom It May Concern:

This request is made to renew that certain Interlocal Agreement by and between the City of Avon Park and the School Board of Highlands County for the lease of the premises known as "Head Field" under the same terms and conditions contained in the original Interlocal Agreement dated August 27, 2012. We respectfully request two additional five-year terms as contained in the agreement.

We respectfully request a waiver of the provision regarding 90-day notice prior to the end of the preceding agreement, which by its terms expires on August 26, 2022.

Thank you for your consideration in this matter.

Sincerely,



Brenda Longshore, Ph.D.
Superintendent of Schools

BL:cw

Dr. Brenda Longshore, Superintendent
Isaac Durrance, Chairperson · Jill Compton Twist, Vice Chairperson
Bill Brantley · Donna Howerton · Jan Shoop

INTERLOCAL AGREEMENT

This Interlocal Agreement ("Agreement") is made and entered into pursuant to section 163.01, Florida Statutes, by and between the **CITY OF AVON PARK, FLORIDA**, a Florida municipal corporation, whose address is 110 East Main Street, Avon Park, Florida, 33825, hereinafter referred to as the "City", and the **SCHOOL BOARD OF HIGHLANDS COUNTY**, a public body corporate, f/k/a **HIGHLANDS COUNTY SCHOOL BOARD**, whose address is 426 School Street, Sebring, Florida, 33870, hereinafter referred to as the "School Board."

1. DEMISE; DESCRIPTION OF PREMISES

City leases to School Board and School Board hires from City, for the purpose of use as an athletic field and for no other purpose, the Premises known as "Head Field" and more particularly described as:

Lot 4, Block 13, Section 15, Township 33 South, Range 28 East, Highlands County, Florida containing 10 acres more or less

along with the structures and appurtenances AS-IS and WHERE-IS, situated in the City of Avon Park, County of Highlands, State of Florida. City makes no representation or warranty whatsoever as to the condition of the Premises. As used in this Agreement, the term "Premises" refers to the real property described above and to any improvements located on the property from time to time during the term of this Agreement.

2. TERM

The initial term of this Agreement shall be for ten (10) years, commencing on August 27, 2012, and ending on August 26, 2022. This Agreement may be renewed for successive five-year terms upon written request of School Board for an additional two (2), five (5) year terms for a total of twenty (20) years. Thereafter, this Agreement may be renewed for additional terms by written request of School Board, provided, however, written approval of the City is required, and approval by the City of any additional terms after twenty (20) years shall be purely discretionary. Notice by School Board for any renewal term must be served on City at least ninety (90) days prior to the end of the preceding term. School Board shall in no event be entitled to renew the term of this Agreement, even though notice is timely given, unless School Board shall have timely performed all of its obligations under this Agreement, and furthermore, shall not be in default in the performance of any of its obligations on the date of the expiration of the initial term of this Agreement. As used in this Agreement, the expression "term of this Agreement" refers to such initial term and to any renewal of the initial term as provided below, and the terms and conditions of this Agreement shall apply to each such renewal term unless amended by a separate writing executed by both School Board and City.

3. RENT

The total rent for the full Agreement term shall be \$10.00 per year for each year, which School Board shall pay to City annually, but may pay for the full term in a lump sum.

4. MANAGEMENT, USES, AND USES PROHIBITED

School Board leases the Premises for the purpose of operating and maintaining a public baseball park and baseball recreational center. School Board agrees that in lieu of a substantial amount of additional rent for the Premises, School Board shall manage the Premises in the interest and use of Avon Park citizens in addition to the interests of School Board. Such management duties shall include use by local baseball leagues. School Board shall not use or permit the leased Premises, or any part thereof, to be used for any purpose or purposes other than the purpose for which the Premises are leased. No use shall be made that substantially excludes athletic park usage of the Premises by City residents, subject to reasonable approval by Highlands County School District. No use shall be made or permitted to be made of the Premises, or acts done, that will cause a cancellation of any insurance policy covering the building located on the Premises, or any part of the Premises, nor diminution in value of the Premises; nor shall School Board sell, or permit to be kept, used, or sold, in or about the Premises, any article prohibited by any required insurance policies. School Board shall, at its sole cost, comply with all requirements, pertaining to the leased Premises, of any insurance organization or company, necessary for the maintenance of insurance, as provided in this Agreement, covering any building and appurtenances at any time located on the leased Premises.

5. UNLAWFUL ACTS, WASTE AND NUISANCE PROHIBITED

During the term of this Agreement, School Board shall comply with all applicable laws affecting the leased Premises including City ordinances and resolutions. School Board shall not commit or suffer to be committed any waste on the leased Premises, or any nuisance.

6. ABANDONMENT OF PREMISES

School Board shall not vacate or abandon the Premises nor cease using the Premises as an athletic field at any time during the term of this Agreement. If School Board abandons, vacates, or surrenders the leased Premises, or is dispossessed by process of law, or otherwise, this Agreement shall terminate and any personal property belonging to School Board and left on the Premises shall be deemed to be abandoned, at the option of City, except such property as may be encumbered to City.

7. CITY'S RIGHT OF ENTRY

School Board shall permit City and the agents and employees of City to enter the leased Premises at all reasonable times for the purpose of inspecting them, or for the purpose of posting notices of non-responsibility for alterations, additions, or repairs, without any liability to School Board for any loss

of occupation or quiet enjoyment of the Premises.

8. ENCUMBRANCE OF SCHOOL BOARD'S LEASEHOLD INTEREST

School Board may not encumber by mortgage or deed of trust, or other instrument, the Premises or School Board's leasehold interest and estate in the leased Premises.

9. ENVIRONMENTAL CONCERNS

School Board shall in a timely manner, comply with all applicable Environmental Laws applicable to School Board's use of the Premises. "Environmental Law" means any federal, state, or local statute, regulation, or ordinance, relating to the protection of human health or the environment in effect as of the date of execution of this Agreement, and includes, but is not limited to, The Florida Air and Water Pollution Control Act (Chapter 403, Florida Statutes), the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") (42 U.S.C. §9601, et. seq.), the Resource Conservation and Recovery Act (42 U.S.C. §6901 et. seq.), the Clean Water Act (33 U.S.C. §1251, et. seq.), the Toxic Substances Control Act (15 U.S.C. §2602, et. seq.), and the Safe Drinking Water Act (42 U.S.C. §300f, et. seq.), as such are amended during the term of this Agreement.

City is unaware of any unlawful discharges or contamination in violation of Environmental Laws onto the Premises, and School Board has made diligent research and inquiry as to the present condition of the Premises, and accepts the Premises and all structures for all purposes AS-IS WHERE-IS.

10. SUBLETTING AND ASSIGNMENT

Subletting of the Premises is prohibited. Assignment of this Agreement by School Board is prohibited.

11. NOTICES

All notices, demands, or other writings in this Agreement provided to be given or made or sent, or which may be given or made or sent, by either party to this Agreement to the other, shall be deemed to have been fully given or made or sent when made in writing and deposited in the United States mail, postage prepaid return receipt requested or by delivery to a nationally recognized overnight courier service, and addressed to that party at the address stated above, unless notified of a different address in writing.

12. TAXES AND GOVERNMENT CHARGES

School Board acknowledges that, City is a governmental entity with authority to tax its citizens, and School Board shall be obligated to pay any property tax bills as rendered through Highlands County directly to Highlands County if School Board is lawfully required to pay such

taxes under Florida law, even though the bills may contain taxes to be received by City. Furthermore, School Board agrees to pay all other lawful taxes, levies or charges lawfully imposed by any state or local governments to the extent applicable to the Premises and/or improvements thereto if School Board is lawfully required to pay such taxes under Florida law. The parties agree that the School Board shall not be required to pay City special assessments for the Premises.

13. CONSTRUCTION OF NEW BUILDING AND IMPROVEMENTS AND REMOVAL OF EXISTING STRUCTURES

a. Plans and specifications. School Board shall, at School Board's sole expense, prepare plans and specifications for any new structures, or expansion, renovation or remodeling of existing structures to be erected on the Premises. Any modifications or new construction shall be similar in design and appearance to the existing historic structures. Such plans and specifications shall be submitted to City for City's written approval or for any revisions required by City. Except for structures deemed by the City to have historical significance, the City shall not unreasonably withhold approval, and in the event of disapproval, City shall give to School Board an itemized statement of the reasons for the disapproval within thirty (30) days after the plans and specifications are submitted to City. The City shall have sole, unfettered discretion to reject School Board plans to remove, alter or improve any structures deemed by the City, in its sole unfettered discretion, to have historical significance.

b. Removal, restoration or replacement of currently existing structures. School Board and City agree that School Board may ~~remove~~, restore or replace the existing structures on the Premises, subject to City approval as discussed above, without compensation for those structures to City, or compensation to School Board for removal, restoration or replacement. School Board shall have no obligation, at the expiration or other termination of the Agreement, to restore or replace the structures located on the leased Premises at the commencement of the term of this Agreement.

c. Permitting of construction, alterations and improvements. School Board shall be responsible for obtaining all required permits prior to beginning any construction, alterations or improvements at no expense to the City.

d. Disposition of new improvements. Any new building constructed by School Board on the Premises, and all alterations, improvements, changes, or additions made in or to such Premises shall become the property of City at the termination of this Agreement.

14. REPAIRS AND DESTRUCTION OF IMPROVEMENTS

a. Maintenance of improvements. School Board shall, throughout the term of this Agreement, at its own cost, and without any expense to City, keep and maintain the Premises, including all buildings and improvements of every kind that may be a part of the Premises, and all appurtenances to the Premises, including sidewalks adjacent to the Premises, in good, sanitary, and neat order, condition and repair, and, except as specifically provided in this Agreement, restore and rehabilitate any improvements of any kind that may be destroyed or damaged by fire, casualty, or any other cause

whatsoever. City shall not be obligated to make any repairs, replacements, or renewals of any kind, nature, or description whatsoever to the leased Premises or any buildings or improvements thereon. School Board shall also comply with and abide by all federal, state, county, municipal, and other governmental statutes, ordinances, laws, and regulations affecting the Premises, the improvements on the Premises, or any activity or condition on or in such Premises.

b. Damage to and destruction of improvements. The damage, destruction, or partial destruction of any building or other improvement that is a part of the Premises shall not release School Board from any obligation under this Agreement, except as expressly provided below. Without limiting such obligations of School Board, it is agreed that the proceeds of any insurance covering the damage or destruction shall be made available to School Board for repair or replacement.

c. Damage or destruction occurring toward end of term. Anything to the contrary in the immediately preceding paragraphs of this section notwithstanding, in case of destruction of the building on the Premises or damage to the building from any cause so as to make it untenable occurring during the last ten (10) years of the twenty year term, or within any five year renewal term of this Agreement, School Board, if not then in default under this Agreement, may elect to terminate this Agreement by written notice served on City within 180 days after the occurrence of the damage or destruction. In the event of termination, there shall be no obligation on the part of School Board to repair or restore the building or improvements, nor any right on the part of School Board to receive any proceeds collected under any insurance policies covering the building or any part of the building. On termination, rent, taxes, assessments, and any other sums payable by School Board to City under this Agreement shall be prorated as of the termination date, and in the event any rent, taxes, or assessments shall have been paid in advance, City shall rebate them for the unexpired period for which payment shall have been made.

15. UTILITIES

School Board shall fully and promptly pay for all water, gas, heat, light, power, solid waste, telephone service, and other public utilities of every kind furnished to the Premises throughout the term of this Agreement, and all other costs and expenses of every kind whatsoever of or in connection with the use, operation, and maintenance of the Premises and all activities conducted on the Premises. City shall have no responsibility of any kind for any of such costs and expenses.

16. LIENS

a. School Board's duty to keep Premises free of liens. School Board shall keep all of the Premises and every part of the Premises and all buildings and other improvements at any time located on the Premises free and clear of any and all mechanics', material men's, and other liens for or arising out of or in connection with work or labor done, services performed, or materials or appliances used or furnished for or in connection with any operations of School Board, any alteration, improvement, or repairs or additions which School Board may make or permit or cause to be made, or any work or construction, by, for, or permitted by School Board on or about the Premises, or any obligations of

any kind incurred by School Board. School Board shall at all times promptly and fully pay and discharge any and all claims on which any lien may or could be based, and shall indemnify City and all of the Premises and all buildings and improvements on the Premises against all liens and claims of liens and suits or other proceedings pertaining to those liens.

b. Contesting liens. If School Board desires to contest any lien, it shall notify City of its intention to do so. In such a case, and provided that School Board shall on demand protect City by a good and sufficient surety bond against any lien and cost, liability, or damage arising out of such contest, School Board shall not be in default under this Agreement but shall satisfy and discharge the lien to the extent held valid. However, the satisfaction and discharge of any such lien shall not, in any case, be delayed until execution is had on any judgment rendered on it, and such delay shall be a default of School Board under this Agreement. In the event of any such contest, School Board shall protect and indemnify City against all loss, expense, and damage resulting from the contest including reasonable attorney's fees and costs at all tribunal levels.

17. INDEMNIFICATION OF CITY

City shall not be liable for any loss, injury, death, or damage to persons or property which at any time may be suffered or sustained by School Board or by any person who may at any time be using or occupying or visiting the leased Premises or be in, on, or about the Premises, whether the loss, injury, death, or damage shall be caused by or in any way result from or arise out of any act, omission, or negligence of School Board or of any occupant, subtenant, visitor, or user of any portion of the Premises, or shall result from or be caused by any other matter or thing. School Board shall indemnify City against all claims, liability, loss, or damage whatsoever (including reasonable attorney's fees and costs at all tribunal levels) on account of any such loss, injury, death, or damage. School Board waives all claims against City for damages to the building and improvements that are now on or will later be placed or built on the Premises and to the property of School Board in, on, or about the Premises, and for injuries to persons or property in or about the Premises, from any cause arising at any time. The three preceding sentences shall not apply to loss, injury, death, or damage arising by reason of the negligence or misconduct of City, its agents, or employees. No provision in this Agreement shall be interpreted as a waiver by City or School Board of sovereign immunity, or section 768.28 F.S.

18. ATTORNEYS' FEES

If any action at law or in equity shall be brought under this Agreement, or for or on account of any breach of, or to enforce or interpret any of the covenants, terms, or conditions of this Agreement, or for the recovery of the possession of the leased Premises, the prevailing party shall be entitled to recover from the other party as part of the prevailing party's costs reasonable attorneys' fees, including paralegal costs and appeals, the amount of which shall be fixed by the court and shall be made a part of any judgment or decree rendered.

19. SIDEWALK SPACE

City does not lease to School Board any space under, in, or on any street or sidewalk adjacent to the leased Premises, but does license School Board, subject to all the terms and provisions of the Agreement, and at School Board's sole risk, the right to the use of any space under, in, or on any adjacent sidewalk as City itself may have. School Board shall vacate the space if City is ordered to vacate it by any public authority, and the vacation of the space by School Board shall not entitle School Board to any reduction of rent due under this Agreement. School Board shall indemnify City against all claims of any public authority, for compensation or damages for the use or occupation of or intrusion on any adjacent sidewalk or street by School Board or by any employee, agent, invitee, or anyone acting under instruction or authority of School Board. The rights of School Board under this Agreement shall be subject to present and future ordinances or regulations or laws as may be made by any other public authority having jurisdiction in the Premises.

20. REDELIVERY OF PREMISES

School Board shall pay the rent and all other sums required to be paid by School Board under this Agreement in the amounts, at the times, and in the manner provided in this Agreement, and shall keep and perform all the terms and conditions of this Agreement on its part to be kept and performed, and at the expiration or sooner termination of this Agreement, School Board shall peaceably and quietly quit and surrender the Premises to City in good order and condition subject to the other provisions of this Agreement. In the event of the non-performance by School Board of any of the covenants which School Board has undertaken, this Agreement may be terminated as provided in this Agreement.

21. REMEDIES CUMULATIVE

All remedies conferred on City shall be deemed cumulative and no one exclusive of the other, or of any other remedy conferred by law.

22. INSURANCE

(a) Insurance coverage of Premises. School Board shall, at all times during the term of this Agreement and at School Board's sole expense, keep all improvements that are now or in the future a part of the Premises, insured against loss or damage by fire and the extended coverage hazards for the full replacement value of the improvements, with loss payable to City and School Board as their interests may appear. Any loss adjustment shall require the written consent of both City and School Board.

(b) Personal injury liability insurance. School Board shall maintain in effect throughout the term of this Agreement personal injury liability insurance covering the Premises and its appurtenances in the amount of \$1,000,000 for injury to or death of any one person, and \$2,000,000 for injury to or death of any number of persons in one occurrence. School Board shall maintain in effect throughout

the term of this Agreement property damage liability insurance in the amount of \$250,000. The insurance shall specifically insure School Board against all liability assumed by it under this Agreement, as well as liability imposed by law, and shall insure both City and School Board, but shall be so endorsed as to create the same liability on the part of the insurer as though separate policies had been written for City and School Board. School Board shall also provide proof of Fire Legal Coverage on the property. City reserves the right to adjust the amount of insurance coverage required every five (5) years.

(c) City's right to pay premiums on behalf of School Board. All of the policies of insurance referred to in this section shall be written in a form satisfactory to City and by insurance companies satisfactory to City, with City being included as an additional named insured, and with the insurer waiving any subrogation rights against City. School Board shall pay all of the premiums and deliver the policies, or certificates of the policies, to City within thirty (30) days of commencement of this Agreement. In the event of School Board's failure either to acquire the insurance in the names called for or to pay the premiums or to deliver the policies, or certificates of the policies to City, City shall be entitled, but shall have no obligation, to acquire the insurance and pay the premiums, which shall be repayable to City within thirty (30) days of written demand upon School Board. Failure to repay the premiums shall be cause for the City to terminate this Agreement. Each insurer mentioned in this section shall agree, by endorsement on the policy or policies issued by it, or by an independent instrument furnished to City, that it will give to City at least thirty (30) days' written notice before the policy or policies in question shall be altered or cancelled. City agrees that it will not unreasonably withhold its approval as to the form or to the insurance companies selected by School Board.

(d) Definition of full replacement value. The term "full replacement value" of improvements as used in this Agreement shall mean the actual replacement cost of improvements from time to time, less exclusions provided in the normal fire insurance policy. In the event either party believes that the full replacement value has increased or decreased, it shall have the right, but, except as provided below, only at intervals of not less than three (3) years, to have the full replacement value re-determined by the fire insurance company which is then carrying the largest amount of fire insurance carried on the leased Premises, referred to below as "impartial appraiser". The party desiring to have the full replacement value re-determined by the impartial appraiser shall promptly on submission of the determination to the impartial appraiser give written notice of it to the other party to this Agreement. The determination of the impartial appraiser shall be final and binding on the parties to this Agreement, and School Board shall promptly increase, or may decrease, the amount of the insurance carried pursuant to this section as the case may be to the amount determined by the impartial appraiser. The determination shall be binding for a period of three (3) years, until it is superseded by addendum between the parties to this Agreement or by a subsequent re-determination by an impartial appraiser. Each party shall pay one-half of the fee, if any, of the impartial appraiser. If during any such three-year period School Board shall have made improvements to the Premises, City may have the full replacement value re-determined at any time after the improvements are made at School Board's expense, regardless of when the full replacement value was last determined.

(e) Blanket insurance policies. Notwithstanding anything to the contrary contained in this

section, School Board's obligations to carry the insurance provided for in this Agreement may be brought within the coverage of a so-called blanket policy or policies of insurance carried and maintained by School Board; provided, that the coverage afforded City will not be reduced or diminished or otherwise be different from that which would exist under a separate policy meeting all other requirements of this Agreement by reason of the use of a blanket policy of insurance, and provided further that the requirements of Subsection (e) of this section are otherwise satisfied.

(f) City's Insurance. City may, as a matter of prudence or convenience, maintain additional insurance covering some or all losses or liabilities related to the Premises. The existence of such insurance shall not relieve School Board of the obligation to provide insurance as discussed herein. In the event that City's insurance is called upon to pay any losses, such payments shall be secondary to coverage by School Board's insurance, and School Board agrees to pay all deductibles arising from such coverage.

23. NOTICE OF DEFAULT

Except as otherwise provided herein, School Board shall not be deemed to be in default under this Agreement unless City first gives to School Board ninety (90) days' written notice of the default, and School Board fails to cure the default within a 120-day period or, if the default is of such a nature that it cannot be cured within 120 days, School Board fails to commence to cure the default within such period of 120 days or fails to proceed to the curing of the default with due diligence.

24. DEFAULT

In the event of any breach of this Agreement by School Board, City, in addition to the other rights or remedies City may have, shall have the immediate right of re-entry and may remove all persons and property from the Premises. Any property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of, School Board. City may at any time after that elect to terminate this Agreement for any previous breach. Should City at any time terminate this Agreement for any breach, in addition to any other remedy it may have, City may recover from School Board all damages incurred by reason of the breach, including the cost of recovering the Premises, and including the worth at the time of the termination of the excess, if any, of the amount of rent and charges equivalent to rent reserved in this Agreement for the remainder of the stated term over the then reasonable rental value of the Premises for the remainder of the stated term, all of which amounts shall be immediately due and payable from School Board to City.

25. EFFECT OF EMINENT DOMAIN

(a) Effect of condemnation. In the event all or a portion of the leased Premises shall be appropriated or taken under the power of eminent domain by any public or quasi-public authority, this Agreement shall terminate and expire as of the conclusion of the taking, and School Board shall then be released from any liability accruing under this Agreement after that date, and School Board shall be entitled to compensation paid by the condemner for all improvement to the Premises funded and constructed by

School Board.

(b) Effect of partial condemnation. In the event of partial taking and School Board does not terminate this Agreement, this Agreement shall continue in full force and effect as to the part not taken.

(c) Condemnation award. In the event of the termination of this Agreement by reason of the total or partial taking of the Premises by eminent domain, then in any condemnation proceedings, City and School Board shall be free to make claim against the condemning or taking authority for the amount of any damage done to them, respectively, as a result of the taking. In the event of a partial taking of the Premises and this Agreement is not terminated, then School Board shall have the right to make claim against the condemning or taking authority for only the un-amortized cost of the improvements placed on the leased Premises by School Board and located on the Premises at the time of the taking or appropriation, which improvements shall be deemed to amortize in equal annual amounts over the period commencing with the date of completion of the improvements and ending twenty (20) years after completion of the improvements.

26. DISPOSITION OF IMPROVEMENTS ON TERMINATION OF AGREEMENT

On termination of this Agreement for any cause, City shall become the sole owner of any building or improvements on the leased Premises, and School Board shall execute any documents necessary to record such ownership, and shall provide copies of any blueprints or record drawings of improvements made to the Premises, and any shop drawings, equipment manuals and warranties applicable.

27. WAIVER

The waiver by City of or the failure of City to take action with respect to any breach of any term, covenant, or condition contained in this Agreement shall not be deemed to be a waiver of such term, covenant, or condition, or subsequent breach, or of any other term, covenant, or condition contained in the Agreement.

28. SECTION CAPTIONS

The captions appearing under the section number designations of this Agreement are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.

29. DOCUMENT IS THE RESULT OF MUTUAL DRAFTSMANSHIP

The terms and conditions in this Agreement are the product of mutual draftsmanship by both parties, each being represented by counsel, and any ambiguities in this Agreement or any documentation prepared pursuant to it shall not be construed against any of the parties because of authorship. The

parties acknowledge that all the terms of this Agreement were negotiated at arms' length, and that each party, being represented by counsel, is acting to protect its, his, her, or their own interest.

30. RECORDATION

This Agreement may not be recorded without the City's prior written consent, but School Board agrees, upon request of the City, to execute a memorandum hereof for recording purposes.

31. RADON GAS


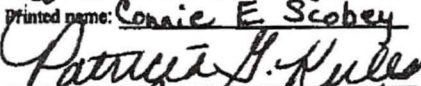
Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

32. COUNTERPARTS AND FACSIMILE (FAX) DOCUMENTS

This Contract may be signed in counterparts, and each counterpart bearing an original signature shall be considered one document with all others bearing original signature. Also, facsimile transmission of any signed original document and re-transmission of any signed facsimile transmission shall be the same as delivery of an original.

SCHOOL BOARD

Witnesses:


Printed name: Connie E. Scohey

Printed name: PATRICIA G. KULES

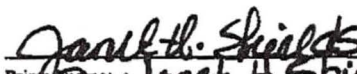
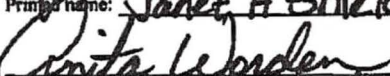
SCHOOL BOARD OF HIGHLANDS COUNTY

By: 
J. Ned Hancock, Chairperson


Attested by: 
Wallace P. "Wally" Cox,
Superintendent of Schools

CITY

Witnesses:


Printed name: Janet H. Shields

Printed name: ANITA WORDEN

CITY OF AVON PARK, FLORIDA

By: 
Sharon Schuler, Mayor

Attested by: 
Cheryl Tietjen, City Clerk



FLORIDA DEPARTMENT OF Environmental Protection

South District
PO Box 2549
Fort Myers FL 33902-2549
SouthDistrict@FloridaDEP.gov

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

September 6, 2022

Mark Schrader, City Manager
City of Avon Park
110 East Main Street
Avon Park, FL 33825
mschrader@avonpark.cc

Re: City of Avon Park Land Clearing Debris Facility
WACS #74996
Highlands County

Dear Mr. Schrader:

Department personnel conducted a compliance inspection of the above-referenced facility on August 19, 2022. Based on the information provided during the inspection, the facility was determined to be in compliance. A copy of the inspection report is attached for your records.

The Department appreciates your compliance efforts. Should you have any questions or comments, please contact Heidi Hoffman at (239) 344-5684, or via e-mail at:
Heidi.Hoffman@FloridaDEP.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Snyder", with a long horizontal flourish extending to the right.

Ryan Snyder
Environmental Manager
Compliance Assurance Program
South District
Florida Department of Environmental Protection

Enclosures: Inspection Report

cc: Lee Bostick, Jr, City of Avon Park, lbostick@avonpark.cc