

Prepared by and return to:
Carie E. Shealy, MMC, City Clerk
City of Cocoa
65 Stone Street
Cocoa, Florida 32922

Parcel ID. #(s): _____

WATER LINE & INGRESS/EGRESS EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made the last date signed below, by _____, a _____, which is authorized to do business in the State of Florida, and has a mailing address of _____ (hereinafter "**Grantor**") in favor of the **CITY OF COCOA**, a Florida municipal corporation, and having a mailing address of 65 Stone Street, Cocoa, Florida 32922 (hereinafter "**Grantee**").

WITNESSETH:

WHEREAS, Grantor is the developer of real property located within Brevard County, Florida; and

WHEREAS, Grantor has designed, permitted and constructed certain facilities for the provision of water to the Property, including water liens, water mains, pipes, service lines, tees, joints and appurtenances (hereinafter "Water Line Facilities"), for which **Grantor** intends to convey ownership of such Water Line Facilities to **Grantee**; and

WHEREAS, Grantee requires a non-exclusive perpetual easement for the construction, installation, repair, replacement, operation, connection to, disconnection from and maintenance of such facilities, as well as a non-exclusive perpetual easement for ingress and egress across **Grantor's** property in order to access and use the Water Line Easement as provided herein; and

WHEREAS, providing of Water Line Facilities to the Property constitute a public purpose; and

NOW, THEREFORE, in consideration of the public purpose stated herein, and the mutual covenants, terms, and conditions and restrictions contained herein, together with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Incorporation of Recitals.** The foregoing recitals are hereby incorporated fully herein by this reference.

2. **Grant of Easement.** Grantor hereby voluntarily grants and conveys to Grantee, subject to any previous and duly recorded easements or grants of record, a perpetual non-exclusive water line easement over, under, through, and across the real property described in **Exhibit “A”**, a copy of which is attached hereto and incorporated herein by this reference (hereinafter “Water Line Easement”); and a perpetual non-exclusive ingress and egress easement across the real property legally described in **Exhibit “B”**, a copy of which is attached hereto and incorporated herein by this reference (hereinafter “Ingress/Egress Easement”). Said easements shall be of the nature and character and to the extent hereinafter set forth.

3. **Purpose of Water Line Easement.** The Water Line Easement is granted for the express and sole purpose of allowing Grantee to perpetually use the property within the Water Line Easement for the construction, installation, repair, replacement, operation, connection to, disconnection from and maintenance of such water line facilities as may be reasonably and customarily necessary for Grantee to provide water service to the Property.

4. **Purpose of Ingress/Egress Easement.** The Ingress/Egress Easement is granted for the express and sole purpose of allowing Grantee to perpetually use the property within the Ingress/Egress Easement to reasonably access its Water Line Facilities contained within the Water Line Easement for the purposes provided therein.

5. **Rights and Obligations of Grantee.** To accomplish the purpose stated above, and at Grantee’s sole expense, the following rights are conveyed to Grantee by this Easement:

- (a) the right for Grantee to inspect, alter, improve, construct, repair, rebuild, relocate and remove, connect to, disconnect from, and maintain the Water Line Facilities and related appurtenances within the Water Line Easement;
- (b) all other rights and privileges reasonably and customarily necessary or convenient for Grantee’s safe and efficient operation, maintenance, and/or repair of the Water Line Facilities; including convenient and reasonable access to such facilities; and
- (c) for the enjoyment and use of said easements for the purposes described above.

In addition, Grantee agrees to and shall promptly restore, or cause to be restored; the surface and subsurface of the real property described herein to the condition said property was in prior to the performance of any construction, reconstruction, replacement, removal, enlargement, operation, inspection, maintenance, repair improvement, relocation or any other use or work contemplated by this Easement Agreement. Any such restoration shall be in a workman like manner acceptable to the Grantor. Grantee shall use its best efforts in its use of the easement areas to not interfere with use by Grantor, its tenants, guests and invitees of adjacent property owned by Grantor.

6. **Grantors Use of Easement.** Subject to and conditioned upon the provisions of Paragraph 3 and 4 of this Agreement, Grantor hereby reserves for itself the right to use the easement

areas; provided, however, that **Grantor's** use may not (i) violate any provision of this Easement Agreement, or (ii) unreasonably interfere with any of **Grantee's** easements, rights or interest under this Agreement. Notwithstanding anything to the contrary contained herein, Grantor shall not have the right to relocate the Water Line Easement on Grantor's property.

7. **Easements Run with the Land.** These easements shall remain a charge against the property. Therefore, these easements shall run with the land and be automatically assigned by any deed or other conveyance conveying the easement property, or a portion thereof, relating to these easements, even though the conveyance makes no reference to these easements as such.

8. **Recordation.** **Grantee** shall record this instrument in a timely fashion in the Official Records of Brevard County, Florida and may re-record it at any time as may be required to preserve its rights in this Easement.

9. **Sovereign Immunity.** Nothing contained in this Agreement shall be construed as a waiver of the **Grantee's** right to sovereign immunity under Section 768.28, *Florida Statutes*, or other limitations imposed on the **Grantee's** potential liability under state or federal law.

10. **Indemnification.** **Grantee** agrees to the fullest extent permitted by law, to indemnify, defend and hold harmless **Grantor** from and against all claims, losses, damages, personal injuries (including but not limited to death), or liability, arising from, out of, or caused by: **Grantee**, its officers, employees, agents, or contractors, negligent or intentional acts, errors, omissions in the operation, maintenance, construction, repair or other use contemplated herein of the Water Line Facilities, except to the extent of negligence or wanton misconduct of the **Grantor**.

The indemnification provided above shall obligate the **Grantee** to defend at its own expense or to provide for such defense, at the option of the **Grantor**, as the case may be, of any and all claims of liability and all suits and actions of every name and description that may be brought against the **Grantor** which may result under this Agreement. In all events, the **Grantor** shall be permitted to choose legal counsel of its sole choice, the fees for which shall be subject to and included with this indemnification provided herein, as long as said fees are not greater than a rate deemed reasonable in Brevard County, Florida.

11. **Injunctive Relief.** The parties agree that, in the event of default, there may not be an adequate remedy at law, and therefore, it is agreed the parties shall be entitled to seek injunctive relief, including a mandatory injunction.

12. **Governing Law and Venue.** This Agreement shall be governed by the laws of the State of Florida. Venue for all disputes shall be properly placed in Brevard County, Florida. The parties agree that the Agreement was consummated in Brevard County, and the site of the easements is in Orange County, Florida.

13. **Notice.** All notices, demands, requests, consents, approvals or other communications

(collectively, Notices) required or permitted to be given hereunder or which are given with respect to this Agreement shall be effective only if in writing and delivered by personal service, or delivered to an overnight courier service with guaranteed next day delivery or mailed by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

TO GRANTOR:

TO GRANTEE:

Attn: City Manager
City of Cocoa, Florida
65 Stone Street
Cocoa, FL 32922

or to such other address as such party shall have specified most recently by like Notice. The aforesaid attorneys for the parties hereto are hereby respectively authorized to give any Notice permitted under this Agreement. Any Notice given as provided herein shall be deemed received as follows: if delivered by personal service, on the date so delivered; if delivered to an overnight courier service, on the business day immediately following delivery to such service; and if mailed, on the third business day after mailing.

14 Modification. This Easement shall only be modified by a written instrument executed by the parties hereto or any successor, assigns, heirs, or representatives thereto.

15. Entire Agreement. This Easement constitutes the full and entire agreement between the parties hereto and supersedes any oral or written prior communications between the parties related to the subject matter contained in this Easement. The laws of Florida shall govern this Easement.

IN WITNESS WHEREOF, Grantor and Grantee have set their respective hands on the day and year first below written.

WITNESSES:

GRANTOR

Print Name: _____

By: _____

Print Name: _____

Print Name: _____

Date: _____, 20__

**STATE OF FLORIDA
COUNTY OF BREVARD**

I HEREBY certify that the foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____, the _____, who is personally known to me, or who has produced _____ as identification.

Notary Public, State of Florida

Print Name _____

My commission expires: _____

GRANTEE

CITY OF COCOA ACCEPTANCE

Matthew Fuhrer, Interim City Manager

**STATE OF FLORIDA
COUNTY OF BREVARD**

I HEREBY certify that the foregoing instrument was acknowledged before me this _____ day of _____, 20_, by Matthew Fuhrer, as Interim City Manager of the City of Cocoa who is personally known to me, or who has produced _____ as identification.

Notary Public, State of Florida

Print Name _____

My commission expires: _____