



COLUMBIA COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REQUEST FORM

The Board of County Commissioners meets the 1st and 3rd Thursday of each month at 5:30 p.m. in the Columbia County School Board Administrative Complex Auditorium, 372 West Duval Street, Lake City, Florida 32055. All agenda items are due in the Board's office one week prior to the meeting date.

Today's Date: 9/27/2019 Meeting Date: 10/3/2019

Name: David Kraus Department: Economic Development

Division Manager's Signature:

A handwritten signature in blue ink, appearing to read "DK", is written over a light blue horizontal line.

1. Nature and purpose of agenda item:

To adopt an Economic Development Agreement for the construction of Bell Road and associated utilities.

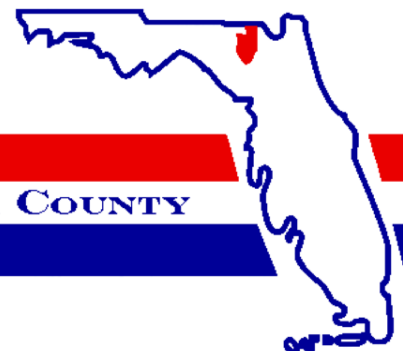
2. Recommended Motion/Action:

To approve Agreement and authorize County Attorney to make clerical changes.

3. Fiscal impact on current budget.

This item has no effect on the current budget.

District No. 1 - Ronald Williams
District No. 2 - Rocky Ford
District No. 3 - Bucky Nash
District No. 4 - Toby Witt
District No. 5 - Tim Murphy



BOARD OF COUNTY COMMISSIONERS • COLUMBIA COUNTY

M E M O R A N D U M

TO: Columbia County Board of County Commissioners
FR: David Kraus, Assistant County Manager
DATE: September 27, 2019
RE: Economic Development Agreement Bell Road

We have attached a draft of the Economic Development Agreement with the City of Lake City and Project 18-6. The Agreement outlines the County's responsibilities for the construction of Bell Road and the associated utilities as outlined by the County Manager at the previous County Commission regular meeting.

With the next Board meeting set for November 7, 2019 and the Commission's request to expedite the process, staff seeks approval of the Agreement by the Columbia County Board of County Commissioners contingent on approval by the City of Lake City and Project 18-6 and to authorize the County Attorney to make any non-substantive or clerical changes necessary to execute this agreement. Should any substantive changes be required, staff will bring the agreement back to the Board.

BOARD MEETS FIRST AND THIRD THURSDAY AT 5:30 P.M.

ECONOMIC DEVELOPMENT AGREEMENT

THIS ECONOMIC DEVELOPMENT AGREEMENT, (“Agreement”), is made and executed this _____ day of _____, 2019 (the “Effective Date”), between **PROJECT 18-6**, (the “Company”); the **CITY OF LAKE CITY**, a political subdivision of the State of Florida, whose mailing address is 205 North Marion Street, Lake City, Florida 32055, (the “City”); and **COLUMBIA COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose mailing address is Post Office Drawer 1529, Lake City, Florida 32056-1529, (the “County”).

PREMISES FOR AGREEMENT

- A. The Company wishes to construct a facility including a substantial Capital Investment (as such term is defined in Section 3) within Columbia County (herein the “Project”) . The Project is planned to be located and constructed on approximately 50-acres on Bell Road. The subject property is depicted in Exhibit “A” attached hereto (the “Site”).
- B. The economy, including the work force of Columbia County, Florida (the “County”), would greatly benefit from the location of the Project, which will provide employment to residents and citizens of the County. The parties believe the Project will result in increased ad valorem taxes, non-ad valorem assessments, and general economic growth. It is the legitimate business and public policy of the local and state governments under Florida law to encourage, engender, promote, and support programs that provide impetus for economic development for the purposes of alleviating unemployment and promoting the local and State economy through the location of new and expanded businesses within the County and the State.
- C. The Company desires to construct the Project in an area of Columbia County that will be annexed into the City and, to induce the County and the City to provide infrastructure set forth in this Agreement, the Company shall guarantee certain levels of Capital Investment for the Project as hereinafter defined. To induce the Company to construct the Project, the County and the City have agreed to participate with the Company on roadway and infrastructure improvements at Bell Road, and the parties intend to memorialize their agreements among and between them by entering into this Agreement. The parties acknowledge that through compliance with this Agreement the resulting economic benefits to the County and the City will be substantial.
- D. The parties acknowledge that the agreements and representations set forth herein may be subject to further actions that the parties must undertake to construct the Project and complete the infrastructure build out as described in this Agreement including, specifically, certain statutory and regulatory proceedings of the parties, and local and state governments.

NOW, THEREFORE, in consideration of the premises and the sum of TEN and No/100 Dollars (\$10.00) and other valuable consideration, including the mutual covenants set forth herein, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties covenant and agree as follows:

1. **SITE AND PROJECT.** The Company agrees to develop the Site and Project as a lawful, properly permitted development including necessary infrastructure improvements and equipment. The Site shall be situated upon the parcel described on Exhibit "A". The Project shall consist of horizontal site work such as sidewalks, earthwork, storm water controls, potable water systems, sanitary sewer systems, parking lots, curbs and gutter interior to the Site, underground utilities constructed to the Site's property lines as well as vertical improvements including buildings and any landscaping required by applicable code on the Site. Each building constructed on the Site will comply with all applicable building codes and all permitted uses under the then-current zoning.

2. **REPRESENTATIONS AND ASSURANCES.** As consideration to the County, the Company agrees as follows:

- a. The Company shall, at its expense, construct capital improvements upon the Site with an expected Capital Investment as described in Section 3.
- b. The Company will provide the County with a certificate of good standing and its authorization to do business in the State of Florida from the Secretary of the State of Florida and the name of the executives of the Company, all of whom have a business address of 14507 Frontier Road, Omaha, Nebraska 68138.
- c. Beginning no later than thirty (30) days from the date the Company obtains its certificate of occupancy for the Project, the Company will continuously maintain a business upon the Site employing not less than 80 persons in full-time employment as that term is used and understood in ordinary business practices, except during such time as the Company may be prevented from doing so on account of war, acts of public enemy, restrictions or prohibitions of state or federal government, or any of their respective agencies, fire, windstorm, strikes, or other factors beyond control of the Company.
- d. The Company has all requisite powers, authority, licenses, permits, corporate or otherwise, to execute and deliver this Agreement and perform its obligations hereunder. The Company's execution, delivery and performance of this Agreement have been duly authorized by or in accordance with its organizational and governing instruments, and this Agreement has been duly executed and delivered for it by signatories so authorized, and it constitutes a legal, valid, and binding obligation of the Company.
- e. Neither the Company, the County, nor the City has received any notice nor to the best of their knowledge is there any pending or threatened notice of any violation of any applicable laws, ordinances, regulations, rules, decrees, permits or orders which would materially and adversely affect their respective ability to perform under this Agreement.

3. **CAPITAL INVESTMENT**

- a. The County shall undertake and construct a Road within and across the current and expanded right-of-way of NW Bell Street ("Bell Road") at a cost of up to THREE MILLION DOLLARS and no/100 with the County committing \$1,200,000 and the Florida Department of Transportation funding \$1,800,000. It is acknowledged that the FDOT has entered into separate agreements with the County for the roadway funding. The County will construct the road in a manner that will allow the Company continued access to their property for construction and operations of the project site. The County and the City will make every effort to provide regular road access from US 441, and all utilities required for the operation of the Project 18-6facility, by October 1, 2020 barring any unforeseen delays,
- b. The County, the City, and the Company agree to fund and construct potable water, wastewater and natural gas lines that will service the Company and surroundings. The Company will provide up to \$1,500,000 to fund the construction or expansion of these improvements and the County will commit up to \$1,600,000 for utility construction along NW Bell Road. The City will provide up to \$700,000 in funds or construction services to loop the water and gas lines along County Road 25A.
- c. In recognition of the Company's financial commitment to the construction of the municipal utilities, the City agrees to waive 100% of all tap and connection fees which total \$21,000. The Company will pay to the City \$49,000 for Capacity Impact fees which cannot be waived by the City. In recognition of the Company's financial commitment to have the utility infrastructure built with capacity exceeding Company's needs, the City agrees to reimburse the Company ___% of the Capacity Impact Fees generated by future connections to the Bell Road utilities constructed under this agreement for a period of 5 years.
- d. The Company agrees that the total investment of capital for the Company's facilities (which shall include the building and equipment at the Site) shall be between EIGHTEEN MILLION and No/100 Dollars (\$18,000,000.00) and TWENTY-FIVE MILLION and No/100 Dollars (\$25,000,000.00) (the "Capital Investment"). The Company shall provide the County with documentation of the total Capital Investment made at the Site within twelve (12) months from the completion date of the Project.

4. **AMENDMENT.** This Agreement may be amended in writing at any time and from time to time, as may be mutually agreed to by the Company, the City and the County.

5. **NOTICES.** Whenever notices are permitted or required with respect to this Agreement, the same shall be given in writing and mailed with postage prepaid to the following addresses.

If to Company: Project 18-6.

If to County: Columbia County Florida
P.O. Box 1529
Lake City, FL 32056-1529
Attn: County Manager

If to City: City of Lake City
205 N Marion Street
Lake City, FL 32056-
Attn: City Manager

7. **ADDITIONAL DOCUMENTS.** The parties agree to execute and deliver such additional instruments and documents, including those specifically identified herein, provide such additional financial or technical information, attend such public hearings or meetings relating to the Project, and take such additional actions, as may reasonably be required from time to time in order to effectuate the objectives contemplated by this Agreement.

8. **DEFAULT AND REMEDIES.** In the event of a material breach of this Agreement, the non-breaching party may notify the breaching party in writing and the breaching party shall have thirty (30) days from receipt of such written notice to cure such breach or provide a plan to cure the breach to the reasonable satisfaction of the non-breaching party. In the event such cure or plan for cure is not provided within the thirty (30) day cure period, then the non-breaching party may terminate this Agreement by providing written notice to the breaching party. No party shall be deemed to be in default for a delay or failure in performance under this Agreement, deemed resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy or terrorism, war, accident, fires, explosions, earthquakes, floods, or catastrophic failure of transportation or strikes or any similar cause beyond the reasonable control of a party (each a "Force Majeure Event"). In the event a party determines that it will not be able to fulfill its responsibilities in the manner described in this Agreement because of a Force Majeure Event, the party shall give prompt written notice to the other party and this Agreement shall terminate as of the date of the Force Majeure Event notice.

9. **OTHER CONSIDERATIONS.** This Agreement is not intended to be and shall not be construed as a limitation upon Company's right to obtain any other rights, privileges, or benefits for which it might qualify under applicable law and, except as otherwise provided herein, all benefits, whether conveyed herein or by applicable law, are intended to be cumulative.

10. **LIMITATION ON ASSIGNMENT.** Except as set forth otherwise herein, neither this Agreement nor any rights hereunder may be assigned by either party without the prior written consent and approval of the other party, which shall not be unreasonably withheld, except Company may assign this Agreement to an affiliate of Company. This Agreement shall be binding

upon the parties, including their successors and assigns, when any assignment is consented to by the parties.

11. **OTHER.**

a. The representations, covenants and agreements of the parties are subject to and contingent upon the mutual performance by the parties hereunder.

b. No delay in any exercise or any omission to exercise any remedy or right shall impair any such remedy or right or be construed to be a waiver of any such remedy or right nor shall it affect any subsequent remedy or right of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by a party.

c. If any one or more of the covenants or agreements provided in this Agreement on the part of any party to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenants or agreements shall be null and void and shall be deemed separate from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

d. Company represents that it intends to comply with all applicable federal, state and local laws, rules, regulations and ordinances governing the Project.

e. This Agreement and all transactions contemplated hereby shall be governed by and construed in accordance with and enforced under the laws of the state of Florida, notwithstanding its choice of law rules to the contrary or any other state's choice of law rules.

f. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

g. Except as otherwise provided herein, each of the parties shall pay all fees and expenses incurred by it in connection with the transactions contemplated by this Agreement.

h. Any covenant or agreement contained in this Agreement between the parties may be amended only by a written instrument executed by the parties. Any condition precedent to a party's obligations hereunder may be waived in writing by such party.

i. All exhibits attached hereto are incorporated herein by reference.

k. This Agreement and the exhibits hereto contain the entire understanding the parties and this Agreement supersedes all prior agreements and understandings, oral and written, with respect to this subject matter.

12. **INDEMNIFICATION.** To the fullest extent permitted by law, County shall indemnify and hold harmless Company, its subsidiaries and affiliated entities and their respective agents and employees from and against all claims, damages, losses, and expenses, including reasonable attorneys' fees, arising out of or resulting from the performance of County's obligations described in Section 3, including, but not limited to, any claim, damage, loss, or expense which (i) is attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including the loss of use resulting therefrom, and (ii) is caused in whole or in part by the negligence or willful misconduct of County or any contractor or subcontractor of County, including but not limited to, any engineer or other design professional employed or retained by County, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable. The indemnification obligations described herein shall survive the termination or expiration of this Agreement.

13. **LIMITATIONS ON LIABILITY.** Notwithstanding any other provision of this Agreement to the contrary, the County, as a political subdivision of the State of Florida, and the Company are bound by and do not waive the provisions of Chapter 768.28, Florida Statutes, or any similar provision of state law limiting the County's liability. In no event shall either party be liable to the other for special, indirect, consequential or punitive damages, even if the party has been advised that such damages are possible and neither party shall be liable to the other for lost profits or lost revenues.

14. **ATTORNEY FEES.** Each party shall pay its own attorney fees incurred in connection with drafting and consummating the transaction contemplated by this agreement. Should either party thereafter file suit to enforce any provisions of this Agreement, then the prevailing party in such litigation shall be entitled to collect from the other party its reasonable attorney's fees, including appellate fees and court costs.

15. **VENUE.** The sole venue for any legal action or proceedings arising from or as a result of this Agreement shall be Columbia County, Florida.

16. **TERM AND TERMINATION.** The term of this Agreement shall begin on the Effective Date and shall terminate twelve (12) months after the completion date of the Project, unless terminated earlier as provided herein.

[REMAINDER OF PAGE IN BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

Signed, sealed and delivered
in the presence of:

PROJECT 18-6.

Witness

Print Name

Witness

Print Name

By: _____

Print: _____

Title: _____

Notary Public, State of Nebraska

(NOTARIAL SEAL)

My Commission Expires: _____

COLUMBIA COUNTY, FLORIDA

CITY OF LAKE CITY, FLORIDA

By: _____
Ronald Williams, Chairman

By: _____
Stephen Witt, Mayor

ATTEST: _____

ATTEST: _____

P. DeWitt Cason

Clerk of
Court

EXHIBIT A



The Site is legally described as:

Commence at the Southwest corner of Section 7, Township 3 South, Range 17 East, Columbia County, Florida, and run North $00^{\circ}58'33''$ West along the West line of the South $1/2$ of the Southwest $1/4$ of said Section 7 a distance of 100.02 feet to a point on the North right of way line of Bell Street; thence North $87^{\circ}51'50''$ East along said North right of way line of Bell Street a distance of 957.82 feet to the POINT OF BEGINNING; thence North $01^{\circ}15'11''$ West a distance of 1226.04 feet to a point on the North line of the South $1/2$ of the Southwest $1/4$ of Section 7; thence North $ar52'10''$ East along said North line of the South $1/2$ of the Southwest $1/4$ of Section 7 a distance of 1776.72 feet to the Northeast corner of said South $1/2$ of the Southwest $1/4$ of Section 7; thence South $01^{\circ}15'11''$ East along the East line of said South $1/2$ of the Southwest $1/4$ of Section 7 a distance of 1229.04 feet to a point on the North right of way line of Bell Street, said point being a point on a curve concave to the South having a radius of 1482.40 feet, a central

angle of $03^{\circ}45'14''$, a chord bearing of South $89^{\circ}44'27''$ West, and a chord distance of 97.11 feet; thence Westerly along the arc of said curve, being said North right of way line of Bell Street, a distance of 97.12 feet to the point of tangency of said curve; thence South $87^{\circ}51'50''$ West still along said North right of way line of Bell Street a distance of 1679.62 feet to the POINT OF BEGINNING. Containing 50.00 acres, more or less.

Parcel Number: A portion of 07-3S-17-04868-000