

**CITY COUNCIL AGENDA
REGULAR MEETING
Monday, November 04, 2019
6:30 PM
CITY HALL**

CALL TO ORDER

ORDER OF BUSINESS

CEREMONIAL ITEMS AND PRESENTATIONS

1. **None.**

APPROVAL OF MINUTES

2. **None.**

PUBLIC COMMENT

This is the time for the public to come forward with any comments they may have on any subject related to City business not listed under Public Hearings. Complete a request to speak form and provide it to the City Clerk prior to the meeting.

State your Name and Address for the record.

Please Limit Your Comments to 3 Minutes or Less.

3. **Citizen Comment.**

CONSENT AGENDA

4. **Resolution No. 3834-19**, Architectural Design Order No. 050-19 for Oviedo on the Park Lot 4 Building A.
5. **Resolution No. 3844-19**, Work Order to Alcalde and Fay for Federal Lobbying Services.
6. **Resolution No. 3849-19**, Change Order to CPH for Engineering Evaluation of the City's Percolation Ponds.
7. **Resolution No. 3850-19**, Request to Apply for a State Water Quality Assistance Grant.

PUBLIC HEARINGS

8. **None.**

FIRST READING OF ORDINANCES

- 9. Ordinance No. 1688**, Relating To Florida Power & Light Company (FPL) Franchise Agreement.

RESOLUTIONS

- 10. None.**

DISCUSSION ITEMS

- 11. None.**

CITY MANAGER'S REPORT

City Manager Bryan Cobb

CITY ATTORNEY'S REPORT

COMMUNICATIONS AND REPORTS

- Council Member Steve Henken
- Council Member Jeff Chudnow
- Council Member Keith Britton
- Mayor Dominic Persampiere
- Deputy Mayor Bob Pollack

FUTURE MEETING DATES

- Monday, November 18, 2019, 6:30 p.m. Regular Session
- Monday, December 2, 2019, 5:30 p.m. CRA Governing Board
- Monday, January 6, 2020, 6:30 p.m. Regular Session
- Tuesday, January 21, 2020, 6:30 p.m. Regular Session

ADJOURNMENT

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, ANY PERSON DESIRING TO APPEAL ANY DECISION MADE BY THE CITY COUNCIL, WITH RESPECT TO ANY MATTER CONSIDERED AT ANY MEETING OR HEARING, WILL NEED A RECORD OF THE PROCEEDINGS AND MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. This record is not provided by the City of Oviedo.

ALL SERVICES, PROGRAMS AND ACTIVITIES OF THE CITY OF OVIEDO ARE OFFERED AND SOLICITED WITHOUT REGARD TO RACE, COLOR, NATIONAL ORIGIN, AGE, SEX, RELIGION, DISABILITY OR FAMILY STATUS. FOR INFORMATION REGARDING THE CITY'S TITLE VI NONDISCRIMINATION POLICY, PLAN AND PROCEDURES PLEASE VISIT WWW.CITYOFOVIEDO.NET.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE CITY CLERK AT 407-971-5500 AT LEAST 48 HOURS IN ADVANCE OF THE MEETING.

**AGENDA
MEMORANDUM**

TO: Honorable Mayor and City Council Members
FROM: Bryan Cobb, City Manager
DATE: November 4, 2019
SUBJECT: **Resolution No. 3834-19**, Architectural Design Order No. 050-19 for Oviedo on the Park Lot 4 Building A

Introduction: This is a request for the City Council to approve Architectural Design Order (ADO) No. 050-19 for Oviedo on the Park Lot 4, Building A.

Discussion: The proposed development is located on the north side of Mitchell Hammock Road and west side of Oviedo Boulevard. The total land area is approximately 4.25 acres. The applicant and property owner is Michael Collard of O.O.T.P., LLC. The architect of record is William Joe Fisher Jr. of Fisher and Assoc., LLC.

Per Land Development Code (LDC) Section 2.5(A)(18), the City Council shall have final approval authority to issue Architectural Design Orders associated with a Site Development Order or Building Permit application associated with a Mixed Use Development, Multifamily Development, Townhome Development, Office Development, and Commercial Development in all zoning districts.

The subject property is designated as Downtown Mixed-Use (DMU) on the City's Future Land Use Map and MUD-VC (Mixed-Use District Village Core) on the City's Official Zoning Map. The project consists of a 6,400 square foot multi-tenant retail building, as part of a larger development on the site with multiple commercial buildings.

Staff reviewed the proposed architectural design according to the standards of LDC Article VIII, Architectural and Urban Design Standards and the Comprehensive Plan. Color elevations and 3D renderings of the proposed building are provided in Attachment 3.

The Applicant requests the following deviations to the LDC minimum architectural standards.

ARCHITECTURAL DESIGN DEVIATIONS:

1. West Elevation (Secondary Façade):

LDC Section 8.7(C)(5), Materials: A 66 square foot deviation to the requirement the maximum percentage of wood-look tile shall be 50% (50% = a maximum of 190 sq. ft. allowed) of a secondary façade to allow the façade to have 256 sq. ft. of wood-look tile, a 35% deviation.

2. East Elevation (Primary Façade):

LDC Section 8.7(C)(5), Materials: A 14.8 square foot deviation to the requirement the maximum percentage of wood-look tile shall be 40% (40% = a maximum of 127 sq. ft.

allowed) of a primary façade to allow the façade to have 142 sq. ft. of wood-look tile, a 12% deviation.

3. South Elevation, (Secondary Façade):

LDC Section 8.7(C)(5), Materials: A 254 square foot deviation to the requirement the maximum percentage of stucco shall be 50% (50% = a maximum of 706 sq. ft. allowed) of a secondary façade to allow the façade to have 959 sq. ft. of stucco, a 36% deviation.

In addition to this building, two (2) other buildings for the lot have already received ADO approval, and a fourth building is on file and pending for ADO approval at a future meeting. Staff recommends approval of the above deviations on the basis of consistency of design among the building's façades and consistency in relation to designs for other buildings on the lot (meeting the intent of LDC Sec. 8.1, the general intent of the architectural and urban design standards) and the proposed mitigation techniques, discussed below.

Per LDC Section 8.3(C), Number of Mitigation Techniques, deviations of LDC Section 8.7 architectural requirements require architectural mitigation techniques, the number of which depends on the highest percentage deviation requested. The highest deviation requested is a 36% deviation for stucco on the South secondary facade. This requires two (2) architectural mitigation techniques for the project. For this project, the applicant offers two (2) contributions to the Public Art Fund, as stated in the letter provided in Attachment 4 in the total amount of \$1,000.00.

A site plan and an amended site plan for the lot have received City Council approval. The amended site plan is provided in Attachment 2.

Staff recommends approval of ADO No. 050-19.

Budget Impact: There is no impact to the budget as a result of the approval of the Architectural Design Order.

Strategic Impact: The proposed development is consistent with the Economic and Vitality strategic goal.

Recommendation: It is recommended that City Council adopt Resolution No. 3834-19.

Attachments: 1. Location Map
 2. Amended Site Plan
 3. Colored Façade Elevations and 3D Rendering
 4. Applicant's Letter for Mitigation Techniques

Prepared by: J. Higbee, Development Review Manager
Reviewed by: Teresa Correa, Development Services Director

**AGENDA
MEMORANDUM**

TO: Honorable Mayor and City Council Members
FROM: Bryan Cobb, City Manager
DATE: November 4, 2019
SUBJECT: **Resolution No. 3844-19**, Work Order to Alcalde and Fay for Federal Lobbying Services

Introduction: This is a request for City Council approve Work Order in the amount of \$30,000 to Alcalde and Fay, for Federal Professional Lobbying Services through April 30, 2019.

Discussion: At its January 16, 2018, meeting, City Council, following the advice of the City Attorney who stated that it can be deemed a reinstatement of a specialized service, gave direction to have the City Manager procure federal lobbyist services with Alcalde and Fay. The basis of the request to utilize Alcalde and Fay was assistance with funds due to the City associate with storm recovery.

On June 10, 2019, the City of Oviedo received notice from the Florida Department Emergency Management (FDEM) that it would begin de-obligating funds from the City's Hurricane Irma reimbursements to cover overpayments made to the City by the State of Florida DEM and FEMA dating back to the 2011 FEMA closure of the Project Worksheet. The overpayment was discovered during a financial reconciliation of Hurricane Charlie accounts done by an FDEM contractor, RSM. The de-obligation would take place as funds related to Hurricane Irma were approved and totals \$342,634.10.

Since the notice, City staff has been working in concert with Alcalde & Fay and Gray Robinson to sort through jurisdictional matters which cross state and federal areas of responsibility. Working with our consultants, staff found that the funds were in fact de-obligated from the State by FEMA in 2011, and it is the State's responsibility to reclaim the funding from the City. Additionally, City Finance Department Staff conducted its own internal reconciliation of the 2004 records and the closed project worksheet and found discrepancies within the Project Worksheet. In the course of corresponding with State DEM, the City has been advised that it may be able to request the discrepancies be reviewed by FEMA.

In the course of seeking assistance in re-opening these case files, staff learned that the City's Work Order with Alcalde and Fay expired. In order to expedite a determination of this issue, staff feels it is important to continue the City's re-institution of services with the firm for six (6) months, which should be enough to resolve the issue. The firm believes that a targeted trip to Washington D.C. to meet with FEMA representatives as well as the Congressional Delegation regarding the inconsistencies with the Project Worksheet.

In addition to the stated recovery goal, the FY 19-20 Scope of Services includes the following responsibilities:

1. 1.Coordinate the City's appropriation, authorizations, grant proposals, legislation and policy related activities with the U.S. House of Representatives, U.S. Senate, departments and Federal Agencies beginning November 4, 2019 through April 30, 2020.
2. Lobby the Legislative and Executive Branches of the United States, legislative committees, joint legislative committees, agencies or departments, administrative offices, as well as other National organizations as necessary to secure funding of the following City objectives:
 - A. Advocate on behalf of the City with FEMA to ensure timely release of federal reimbursement funds related to tropical cyclone or other natural or manmade disasters.
 - B. Identify, apply for, and advocate on behalf of the City funding for the construction of a new Police Headquarters/Regional Law Enforcement Training Center/Emergency Operations Center.
 - C. Identify, apply for, and advocate on behalf of the City funding for the purchase of a new ladder truck for the Fire Department.
 - D. Identify, apply for, and advocate on behalf of the City funding for water resources development, water supply, wastewater treatment and sewer projects.
 - E. Identify, apply for, and advocate on behalf of the City funding for stormwater resources development projects.
 - F. Identify, apply for, and advocate on behalf of the City funding for renovation of former post office into a senior center.
 - G. Identify, apply for, and advocate on behalf of the City funding for the redevelopment of old downtown; including construction of the regional master stormwater pond and streetscaping.
 - H. Identify, apply for, and advocate on behalf of the City funding for the design, right-of-way acquisition, and construction of the SR 426/CR 419 widening.
 - I. Identify, apply for, and advocate on behalf of the City funding for improving security at City Hall and other City facilities.
 - J. Advocate on behalf of the city with the U.S. Army Corps of Engineers for restoration of Lake Jessup.
3. Identify grant opportunities, advocate for and assist the City with securing approval of City grant applications for any of the objectives listed in Task No. 2.
4. Identify grant opportunities, advocate for and assist the City with securing approval of City grant applications for the installation of electric vehicle charging stations throughout the City.
5. Monitor and advocate the City's position on any legislation filed that would impact medical marijuana treatment facility locations.
6. Maintain contact with key Representatives and Senators on behalf of the City.
7. Coordinate a trip to Washington, D.C. for City representatives to meet with the Key Legislators, or key members of their respective staffs, and key members of Executive Departments or agencies, or other state-level entities.

8. Attend and represent the City before any Executive Branch, Department, body, and/or entity that could be of benefit to the City's interests.
9. Compile Oviedo specific progress reports monthly providing information on specific bills identified by the lobbyist and actions taken by the lobbyist as having a direct impact on the City. All such reports shall be submitted electronically.
10. Attend meetings or work sessions of the City of Oviedo City Council and meetings with City staff as necessary.
11. Provide timely telephone and/or email updates with designated City staff on the status of the City's objectives as appropriate.

Currently, Alcalde and Fay has engaged on behalf of the City regarding the City's FEMA reimbursement of storm damage expenses as a result of Hurricane Irma. The firm has assisted the City in formulating and distributing a memorandum which highlights difficulties many municipalities have encountered with FEMA policies and procedures. Primarily contradictory language regarding grouping of like items on project worksheets.

Budget Impact: There is sufficient funding in the FY2019-20 budget to fund the Work Order.

Strategic Impact: Federal lobbying services are directly related to the goals and objectives of the Mobility and Transportation; Recreation, Arts and Culture; and Safety and Security Strategic Focus Areas.

Recommendation: It is recommended that Council adopt resolution 3844-19.

Prepared by: Patrick Kelly, Assistant City Manager

**AGENDA
MEMORANDUM**

TO: Honorable Mayor and City Council Members
FROM: Bryan Cobb, City Manager
DATE: November 4, 2019
SUBJECT: **Resolution No. 3849-19**, Change Order to CPH for Engineering Evaluation of the City's Percolation Ponds

Introduction: This is a request for City Council to approve a Change Order in the amount of \$18,150 to the Work Order and Purchase Order issued to CPH, Inc. for engineering evaluation of the removal of the City's percolation ponds (perc ponds) from service and the replacement of the functions.

Discussion: On June 5, 2017, City Council authorized a Work Order to CPH, Inc. in the amount of \$108,712 under Resolution No. 3428-17 for engineering evaluation of the removal of the perc ponds from service and replacement of the functions.

The City has requested additional assistance from CPH to evaluate the recommended plan of action for the replacement of the existing perc ponds. The evaluation will be based on the total removal of all perc ponds from the system and will include a final recommendation, capital improvement plan, cost estimate, and schedule.

Because the change (increase) in cost exceeds ten percent (10%) of the current purchase order/contract amount, City Council approval is required per the City's Purchasing Policy.

Budget Impact: A budget amendment has been processed for available funding in Fund 401, Utility Fund. A copy of the budget amendment is provided in Exhibit 2 of Resolution No. 3849-19.

Strategic Impact: Removal of all perc ponds from service and replacement of the functions while maintaining the capacity capability of the Oviedo Water Reclamation Facility.

Recommendation: It is recommended that City Council adopt Resolution No. 3849-19.

Prepared by: Brenda King, Project Administrator
Reviewed by: Bobby Wyatt, Public Works Director

**AGENDA
MEMORANDUM**

TO: Honorable Mayor and City Council Members
FROM: Bryan Cobb, City Manager
DATE: November 4, 2019
SUBJECT: **Resolution No. 3850-19**, Application for a State Water Quality Assistance Grant

Introduction: This is a request for City Council to approve the submittal of an application for a State Water Quality Assistance Grant from the Florida Department of Environmental Protection (FDEP) for the Oviedo Regional Stormwater Pond and Park project.

Discussion: The FDEP State Water Quality Assistance Grant is available for shovel-ready construction projects that reduce or eliminate nonpoint source pollution, prioritized in impaired waters implementing TMLL(s) and/or Water Quality Restoration Plan(s). The deadline for application submittal is Friday, November 15, 2019.

The Water Quality Assistance Grant program does not require a local match. However, a proposal will receive additional credits in the evaluation process if there is a local commitment to accomplish the project. The City has budgeted \$3.5 million dollars of third generation sales tax funding (304 Fund) towards the Regional Stormwater Pond and Park Project in the Fiscal year 2019/20 budget. The City's application should receive additional credits for these local funds allocated for the project.

Budget Impact: There is no budget impact by applying for the Grant. If funding is received, it will be applied to reimburse the City for construction costs associated with the project.

Strategic Impact: The Oviedo Regional Stormwater Pond/Park will foster redevelopment of the historic downtown while developing infrastructure that enables quality growth while maintaining and enhancing stormwater management.

Recommendation: It is recommended that City Council adopt Resolution No. 3850-19.

Attachment: FDEP Grant Notice

Prepared by: Brenda King, Project Administrator
Reviewed by: Bobby Wyatt, Public Works Director

**AGENDA
MEMORANDUM**

TO: Honorable Mayor and City Council Members
FROM: Bryan Cobb, City Manager
DATE: November 4, 2019
SUBJECT: **Ordinance No. 1688**, Relating To Florida Power & Light Company (FPL)
Franchise Agreement

Procedure: Call Up Item
Mayor asks Attorney to Read Ordinance by Title Only
City Manager Background
FPL Representative Background
Council Motion to Schedule Public Hearing on November 18, 2019
Council Action

Introduction: This is a request for City Council to approve an Ordinance which extends the electric services franchise granted by the City to FPL.

Discussion: Currently, there is a franchise in effect between the City and FPL. The terms of which are set forth in Ordinance No. 784, passed and adopted on February 26, 1990. FPL's written acceptance thereof, dated March 26, 1990, granted to FPL, its successors and assigns, a thirty (30) year electric franchise within the City's Corporate Limits. Thus, the current franchise term is effective through March 26, 2020. A copy of Ordinance No. 784 is provided in Attachment 1.

Over the past several months FPL legal and other staff and the City Manager and City Attorney have been reviewing and negotiating the possibility of entering into a new franchise providing for the payment of franchise fees to the City, in exchange for the nonexclusive right and privilege of supplying electricity and other services within the City free of competition from the City pursuant to certain terms and conditions.

As a consideration for the nonexclusive right to use the City's public rights-of-way under the subject franchise, FPL agrees to pay to the City an amount equal to six percent (6%) of FPL's billed revenues including, but not limited to, fuel charges, less actual write-offs, from the sale of electrical energy to residential, commercial and industrial customers (as such customers are defined by FPL's tariff) within the City's Corporate Limits for the monthly billing period ending sixty (60) days prior to each payment. Said payment will commence ninety (90) days after the ordinance's effective date, and each month thereafter for the remainder of the term of the franchise. Said amount will be added to the amount of all licenses, excises, fees, charges and other impositions of any kind whatsoever (except ad valorem property taxes and non-ad valorem

tax assessments on property) levied or imposed by the City against FPL's property, business or operations and those of its subsidiaries during FPL's monthly billing period ending sixty (60) days prior to each such payment. Until that effective date, the City shall continue to receive franchise payments under Ordinance No. 784.

“Write offs” refers to and means uncollectable billed revenues from the sale of electrical energy to residential, commercial and industrial customers located within the City Limits.

Revenues do not include:

1. Revenues from the sale of electrical energy for public street and highway lighting (service for lighting public ways and areas);
2. Revenues from other sales to public authorities (service with eligibility restricted to governmental entities);
3. Revenues from sales to railroads and railways (service supplied for propulsion of electric transit vehicles);
4. Revenues from sales for resale (service to other utilities for resale purposes);
5. Franchise fees paid to the City;
6. Late payment charges;
7. Field collection charges; and
8. Other service charges allowed under FPL’s tariffs.

The City is granted “most favored nation” status in the subject franchise. During the term of the franchise with the City, if FPL enters into a franchise with any other city located within Seminole County, Volusia County, Brevard County, Orange County or Lake County, the terms of which provide for the payment of franchise fees by FPL at a rate greater than 6.0% of FPL’s revenues for all retail customers, under the same terms and conditions as specified in the City's franchise, then FPL, upon written request of the City, shall enter into a new franchise with the City in which the percentage to be used in calculating monthly payments will be the greater rate provided for such other municipality within such counties. However, if the franchise with such other municipality within such counties contains additional benefits given to FPL in exchange for the increased franchise rate, which such additional benefits are not contained in the franchise agreement with the City, the new franchise agreement shall include those additional benefits to FPL.

The term of the subject electric franchise shall be thirty (30) years from the date of acceptance by FPL, sometime in 2049.

The analysis of franchise fees collections, provided in Attachment 2, indicates the revenues derived, and to be derived, by the franchise fees paid as a result of the electric services provided by FPL within the City Limits of the City. Currently, the Franchise rate is 6%, but the residents have a lower billing factor of 5.36% due to the adjustments related to other payments by FPL, such as property taxes. The new Franchise will not have a provision to deduct the property taxes. With an increase to 6%, the billing factor will be around 6% as well, and the average residential customer will see a slight increase in their monthly bill.

It is projected that the City's annual franchise fees will increase approximately \$20,338 to \$341,160 under the subject Franchise. The City's annual franchise fees under the current Agreement approximate \$320,822. The estimate is based on FPL's current rates and the actual 2017 usage by FPL customers within the City.

Strategic Impact: Ensures that the City operates in a fiscally sound and prudent manner and conserves and protects City property interests, revenues and resources.

Recommendation: It is recommended that City Council read Ordinance No. 1688 by title only and schedule a public hearing for Monday, November 18, 2019.

Attachments: 1. Ordinance No. 784
 2. Analysis of franchise fees collections

Prepared by: Lonnie Groot, City Attorney's Office'

Reviewed by: Jerry Boop, Finance Director